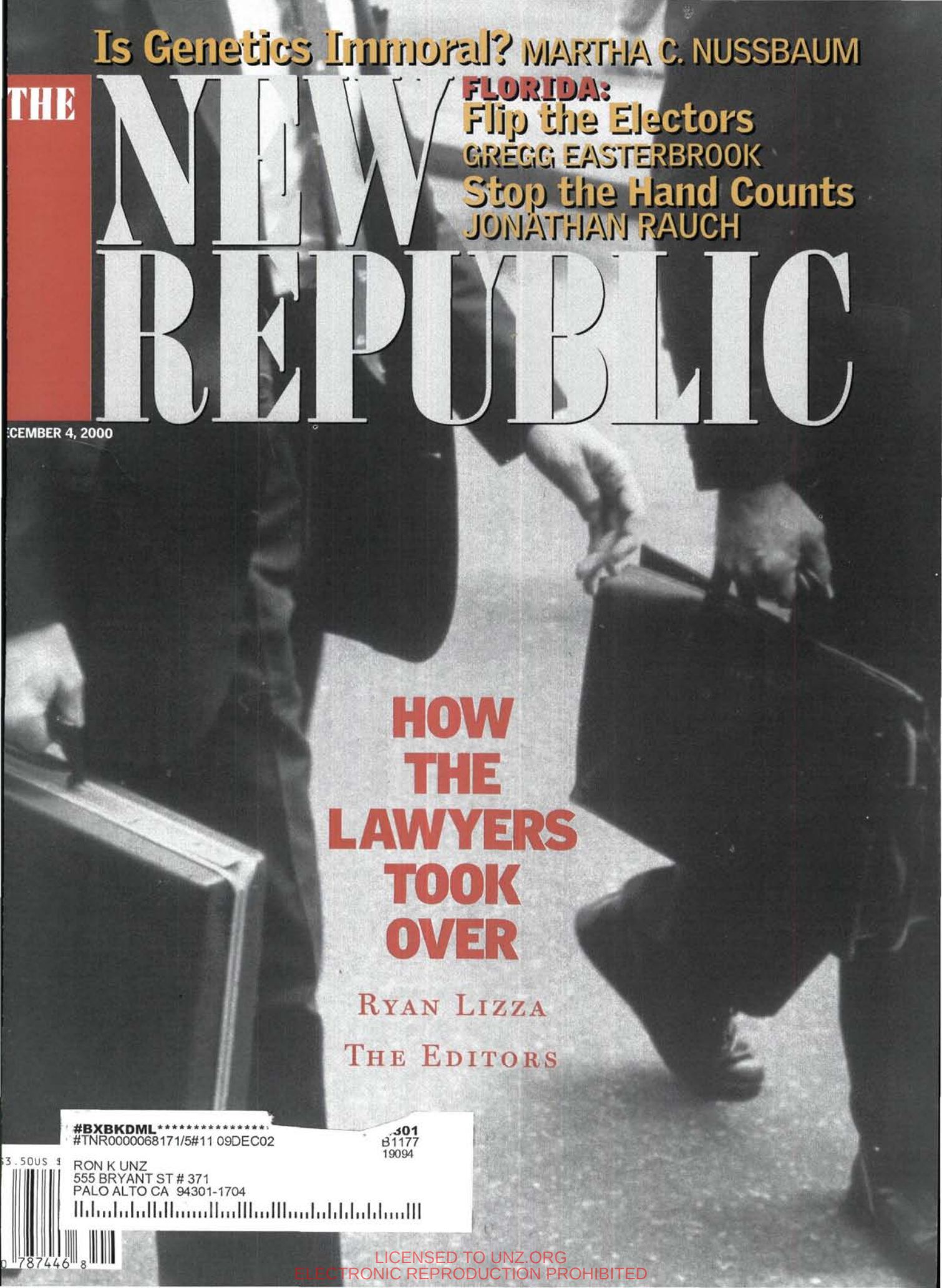


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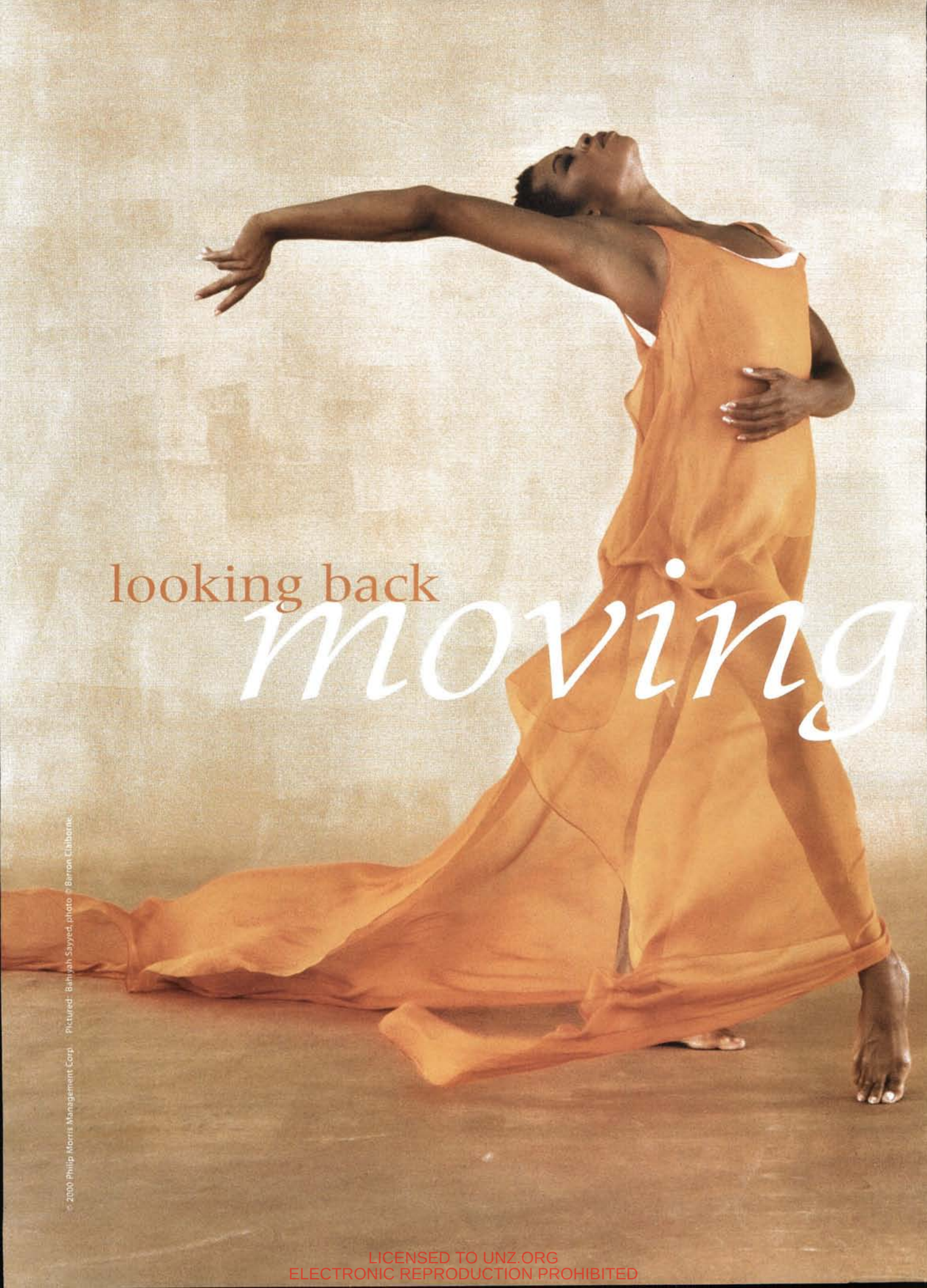


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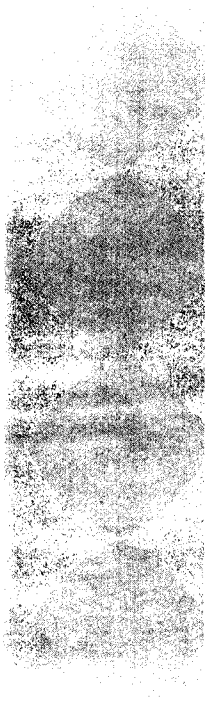

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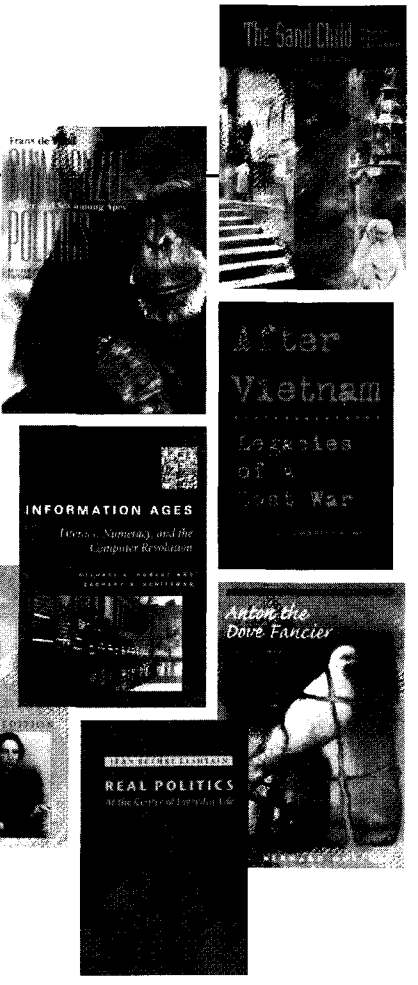


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ISSUE 4,481

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**THE NEW REPUBLIC, Vol. 223, Number 23, Issue 4,481, December 4, 2000. (Printed in the United States on November 21, 2000.) Published weekly (except for combined issues dated January 3, April 17 & 24, July 10 & 17, and August 28 & September 4, 2000) at 1220 19th Street, NW, Washington, D.C. 20036. Telephone (202) 331-7494. For advertising inquiries, please contact Ann Rossaki at (202) 331-7494 or Ellen Jarvis in our NY sales office at (212) 924-8700. Yearly subscriptions, $59.94; foreign, $99.94 (U.S. funds); Canada, $79.94 (U.S. funds). Back issues, $4.00 (includes postage & handling).** **© 2000 by The New Republic, Inc.** **(ISSN 0028-6583). Periodicals postage paid at Washington, D.C., and additional mailing offices. Rights and permissions: fax (202) 331-0275. Indexed in Readers' Guide, Media Review Digest. Microform, Canadian Periodical Index, CD-ROM, issue, and article copies are available through University Microfilms Intnl., 300 N. Zeeb Road, Ann Arbor, MI 48106. Telephone 1-800-521-0600. Postmaster: Send changes of address to The New Republic, P.O. Box 37298, Boone, IA 50037-0298. Member, Audit Bureau of Circulations. Unsolicited manuscripts can be returned only if accompanied by a self-addressed, stamped envelope (e-mail address: tnr@aol.com). For subscription inquiries or problems call 1-800-827-1289 or visit our website at www.tnr.com.**



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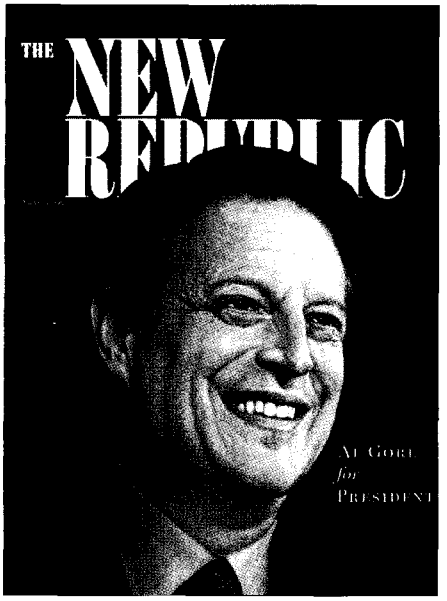
## Pulling rank

TO THE EDITORS:

Marcia Yablon's article "Test Flight" (October 30) argues that Mount Holyoke and other colleges that have dropped standardized testing as a requirement for admission do so partly to improve their rankings in college guidebooks. As the former dean of admissions at Bates College, which stopped using standardized testing as an admission requirement 16 years ago, I would like to offer some other points of view.

Yablon argues that the movement toward optional testing is a recent phenomenon. However, top colleges like Bates and Bowdoin made the move away from required testing years before *U.S. News & World Report*, or anyone else, started comprehensively ranking colleges. Not only did Bates drop test requirements, we also conducted follow-up research proving that our strategy is hardly "self-righteous rhetoric" but rather an educational model for others to follow.

For 16 years now, between one-quarter and one-third of the students in each class have entered the college without providing any test scores. Those students achieve




and graduate at exactly the same rates as those who voluntarily provide test scores. Every study we have done confirms that testing is a moderate level predictor for those who choose to submit it. For non-submitters, test scores constitute actively misleading information, what a statistician would call a "false negative." The non-submitting students tell us, "I am a better student than these tests would suggest," and they are correct. They fall into every subgroup that folk wisdom would tell you standardized testing does not benefit: women, rural students, blue-collar students, immigrant and multicultural students, and, yes, some highly rated athletes and learning-disabled students. For all of these students, self-discipline and a history of success in demanding contexts are much better predictors than test scores.

No college administrator would ignore the enrollment and marketing issues connected to a major policy decision like dropping standardized testing. But if a testing-optional policy fits the college's culture and intellectual demands and if all the results of that decision have been positive, why should that not be reflected in the guidebooks?

WILLIAM C. HISS
*Vice President for External and Alumni Affairs*
*Bates College*
*Lewiston, Maine*

TO THE EDITORS:

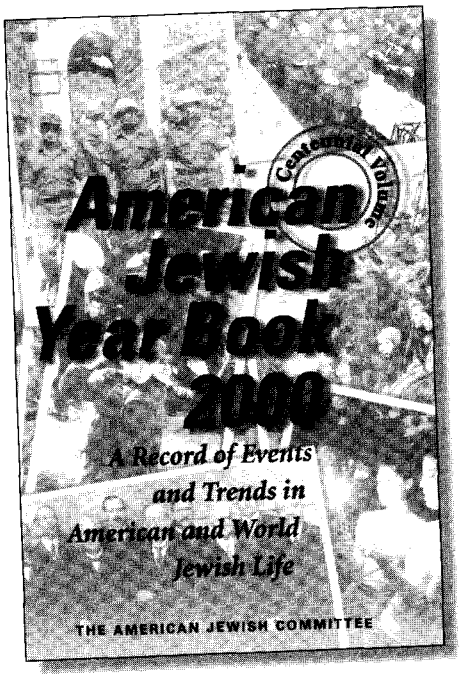
Marcia Yablon is flat wrong when she asserts that Bowdoin College had an improved *U.S. News* ranking in mind when it decided to make submission of SAT scores optional as a criterion for admission. Yablon reports that Bowdoin "dropped its SAT requirement and climbed two places in the [*U.S. News*] rankings the next year." In fact, Bowdoin dropped the SAT as a requirement in October 1969, two decades before the first extensive *U.S. News* rankings were published.

As the first highly selective college in the United States to make submission of the SAT optional, Bowdoin made its decision with care. Proponents of the change noted the weak-to-modest correlation between SAT scores and students' performance in college. They felt that better predictors of success could be found in interviews, recommendations, transcripts, and the application itself. And they believed that both secondary schools and parents overemphasized the SAT in the admissions process. There was never a thought that such a policy might one day affect Bowdoin's position in a yet-to-be-published set of rankings.

SCOTT W. HOOD
*Associate Vice President and Director of Communications*
*Bowdoin College*
*Brunswick, Maine*

TO THE EDITORS:

There are a number of errors in Marcia Yablon's diatribe "Test Flight." I regret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that she never talked to anyone at Muhlenberg College to ensure the accuracy of her statements about us. It seems she simply allowed assumptions to substitute for fact.

Let me set the record straight: Muhlenberg publishes an all-inclusive SAT profile. That is, our SAT data—both for *U.S. News* rankings and in our own admissions literature—includes all scores. Had Yablon bothered to check with me, I could have alerted her to that fact.

In addition, Yablon appears not to understand that admissions data appearing in *U.S. News* lags each admissions cycle by one year. So the fact that we approved our SAT-optional policy in the spring of 1996 had nothing to do with our rankings in that fall's *U.S. News*. Furthermore, because we provide all-inclusive data to *U.S. News*, none of our subsequent rankings have been affected by our SAT-optional policy.

CHRISTOPHER HOOKER-HARING
*Dean of Admission and Financial Aid*
*Muhlenberg College*
*Allentown, Pennsylvania*

TO THE EDITORS:
Marcia Yablon rightly notes a connection between the SAT and the annual college rankings dreamed up each year by *U.S. News*. What she fails to see is that this is a serious problem.

Mount Holyoke has been in the lead in recent months in highlighting issues regarding the SAT: the test's limited scope; the cynical, multimillion-dollar test-prep industry; and the fact that too many good students' futures are constrained by their scores on this one, questionable measure. In addition, as *The Washington Monthly* points out in its superb September cover story on this issue, *U.S. News*' internal 1997 study found the magazine's pseudoscientific methodology indefensible. Higher education is increasingly being shaped by the symbiotic relationship of these two highly arbitrary systems of measurement, neither of which has much, if anything, to do with questions of either the potential of students or the success of colleges in providing excellent education.

JANE B. BROWN
*Vice President for*
*Enrollment and College Relations*
*Mount Holyoke College*
*South Hadley, Massachusetts*

MARCIA YABLON REPLIES:
I regret my error regarding the year Bowdoin College changed its SAT policy. In my defense, though: I got my information from the Bowdoin admissions office. On the other hand, Christopher Hooker-Haring's statement that Muhlenberg College "publishes an all-inclusive SAT profile" has no bearing on the questions my article raised. I never suggested that schools were withholding data—only that making the SAT optional left them with a smaller, select set of SAT scores to report and that this smaller set served as the basis for the rankings. Hooker-Haring's suggestion that I don't know that *U.S. News* rankings refer to the previous year is flat-out wrong, as he would know had he bothered to check my numbers against the 1997 rankings. As for Jane B. Brown's critique of the methodology of the *U.S. News* rankings, I quite agree. But the fact remains that where a school finds itself in those rankings is important for attracting top applicants, which creates a strong incentive to take measures—such as dropping the SAT requirement—that might help move it up the list.

*continued on page 57*

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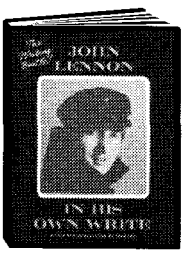


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# TRB

FROM WASHINGTON

# Bad Intent

**Note:** If you make a mistake, return your ballot card and obtain another. **AFTER VOTING, CHECK YOUR BALLOT CARD TO BE SURE YOUR VOTING SELECTIONS ARE CLEARLY AND CLEANLY PUNCHED AND THERE ARE NO CHIPS LEFT HANGING ON THE BACK OF THE CARD.**

—Voting instructions,
Palm Beach County, Florida

ATTENTION READERS: I hope you can understand the above text. It's not exactly opaque; in fact, the critical text is in screaming bold capital letters. The capitalized words appeared on the voting guide clearly posted in every Florida polling station that used Votomatic machines and in leaflets mailed to many voters in Palm Beach. They are the only instructions on the flyer in bold capitals. The central rationale of the Gore campaign's attempt to force hand recounts in Florida is therefore obvious. It is that even though there are clear and accurate instructions how to vote, and even though there is no evidence of fraud or voting-machine failure, that's still not good enough. Even under these palpably fair circumstances, the voters deserve a second and third chance.

So this is what the meaning of the word "vote" now is.

When all this is over, assuming it ever is, it will be worth examining the philosophical underpinnings of the Gore campaign's current argument about voting in Florida. The position, so far as I can glean, is that an election is about "the votes of all people who *attempted* [my emphasis] to exercise that vote," as Democratic lawyer Paul Hancock put it to the Florida Supreme Court this Monday. A vote should be counted, in other words, even if the voter blithely ignores clear voting instructions, even if he doesn't punch a hole forcefully enough, even if the only indicator of his vote is the merest dent in a piece of paper—the legendary "dimpled chad."

In the current atmosphere, it's easy to overlook the implications of this stance—especially since the Republicans have been engaging in plenty of ugly, partisan hypocrisy of their own. But there is a real issue here about what voting actually means. To some, voting is a right that should be guaranteed regardless of any incompetence, error, failure, or irresponsibility on the part of the voter. What matters is not the vote as such but the intent of the voter. Presumably, this is why members of the Gore campaign have made the argument that, if the "will of the people" is considered, Al Gore will win Florida and the presidency. The Rousseauian "will of the people" is the corollary to the narrower phrase "intent of the voter." That's why Democrats, as a general rule, favor the easiest form of voter registration and the loosest form of vote-counting. That's why plenty of Democrats, Hillary Clinton now among them, want to abolish the electoral college, since its formalism might undercut the popular "will." That's why, as I write, hundreds of election workers in Palm Beach, Broward, and Miami-Dade Counties are holding ballots up to the light, running their fingers over them, twisting them in the air to catch shadows, and so on. They are discerning the Holy Grail of democratic politics—the will of the people.

Others have a different view. They argue that American democracy is not a Rousseauian exercise in popular will. It's a far stricter, Lockean, Anglo-American system based on the letter of the law and a successful vote cast by a rational, responsible voter. In this constitutional system, the "will of the people" is an irrelevant abstraction. After all, half the people don't even bother to vote—and, since that's their choice, there's no need to be overly concerned about it. And the other half don't constitute some mystical force called the "general will." The 100 million voters, in this reading, are merely 100 million citizens making discrete decisions, the motives for which are rightly ineffable.

I include myself among the hard-asses holding this view, which has a clear upshot: that a strict, clear, technical standard for a vote should be maintained at all costs. That's why I believe, contra the Democrats, that Florida's hand recounts in selective counties should have been halted pronto and that, contra the Republicans, the strictest standards should be applied to overseas military ballots as well—even if it means throwing many of them into the trash. That's why I support Florida Secretary of State Katherine Harris's entirely reasonable interpretation of Florida law, which is that manual recounts should only be conducted if the machines have clearly malfunctioned and that, in the rare instances when a hand count is mandated, it should be governed by the strictest criteria for legal votes. I'm sorry, but dimpled chads don't cut it. Given the clear instructions voters had, they don't even come close.

This is a genuine philosophical disagreement—and it matters. It matters because the Gore campaign's endgame is of a piece with its dragging the Clintonized Democrats back to the left. It's clear, for example, that Gore's passionate faith in affirmative action and hate-crime laws stems from the same outlook. What matters, to Gore, is justice. And by justice he means not the strict application of formal legal norms but the flexibility of those norms in the hands of well-meaning people to get the just result: "law which has meaning," as he recently put it. So, even if there's no evidence that universities are racist in denying places to minority applicants, the admissions boards should still ignore technical things like test scores and admit enough minority students to achieve fairness. Similarly with the criminal law: Where once we simply determined whether a crime was committed or not, now we inquire further into the intent of the criminal to see whether his bigotry demands greater punishment. Otherwise, we are told, justice in its fullest sense will not be done. From affirmative action and hate-crime laws it's a small step to ensuring that all voters, however negligent, have their intent, however vague, reflected in the final result of an election. Call it affirmative action voting—the apotheosis of modern liberalism.

This is a far more important issue than who wins the election. What matters now is not who wins but how he wins. If Gore wins this way, the main result, apart from a right-wing backlash of untold ferocity, will be a blow to the careful formalism of our electoral system. It will open the floodgates for an onslaught of lawyers into every nook and cranny of our electoral system, in races up and down the country. After that, the electoral college will be targeted. A Gore victory through judicially imposed, loosely interpreted hand counts in South Florida will resonate across the country as the triumph of a liberalism that has replaced responsibility with victimhood, law with legalism, character with partisanship. Rather than challenging voters to a new civic responsibility, the Democrats are defining down democracy to include those who cannot even be held responsible for following a simple ballot instruction. The sad truth is that Gore is now undermining the very ethic of responsibility he once defended. I hope, for his sake, that this isn't the way he wins.

ANDREW SULLIVAN



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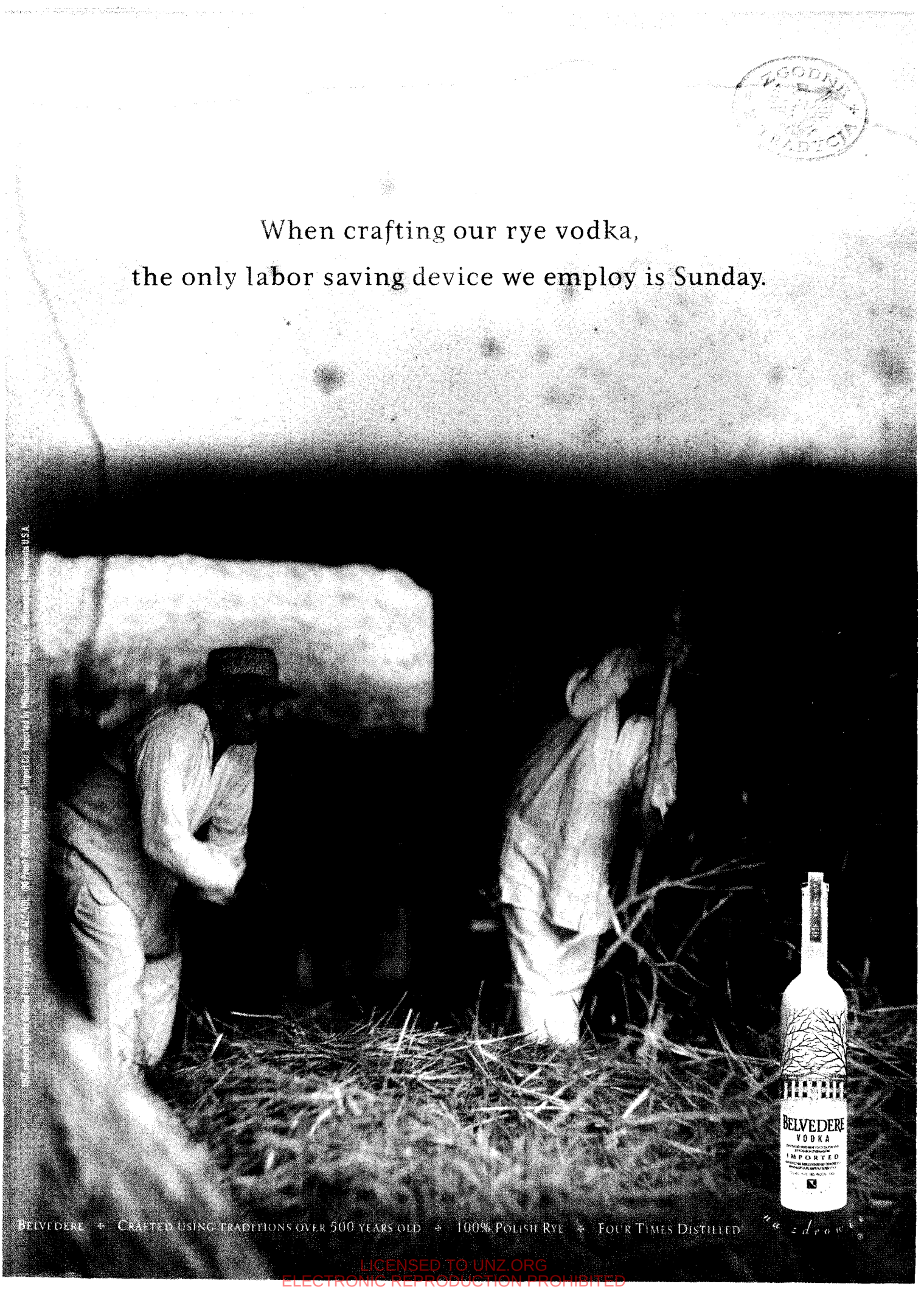


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# Up and Down by Law

THERE IS WISDOM in the law, but when did the lawyers become the wise men? Whatever else will be certified in Florida, historians will certainly observe about the strange election of 2000 that it certified the ascendancy of lawyers in the moral and political life of the United States. When the country fell into one of the greatest political perplexities in its history, it turned to attorneys. They are everywhere: in the canvassing rooms, in the courts, in the media. And everywhere people are learning to speak the language of lawyers for the purpose of understanding their own predicament. In the aftermath of the Florida Supreme Court's verdict, we are hearing more and more about the majesty of the law; and there is no denying that there was something majestic about the openness of those proceedings, about the naturalness of the democratic spirit that informed them. But there is also something grotesque about those armies of attorneys.

To be sure, there are good reasons for the nomocentrism of contemporary America. We are, as we like to say, a nation of laws; and laws are complicated and arcane, and special skills are required for their comprehension. "[The] American man of law," Tocqueville wrote, "resembles in a way the priests of Egypt; like them, he is the lone interpreter of an occult science." The mess in Florida is owed not least to the obscurity and the complexity of the state's election law. And so there is a technical reason for the prominence of lawyers. They know how to perform tasks that others do not know how to perform, tasks that sometimes must be performed. They possess limited but real skills. In this respect, they are like accountants or snipers. They are necessary experts.

Moreover, this nomocentrism is hardly a new phenomenon in American history. Again, Tocqueville: "There is almost no political question in the United States that is not resolved sooner or later into a judicial question." That was written in 1835. The prestige of the law in America has been owed to the prestige of the process by which American law is made. Even the most esoteric statutes—cf. dimpled chads—are the products of a system of political representation whose legitimacy cannot be doubted. Did the citizens of Florida devise the state's code on manual recounts? Of course not. The law, strictly speaking, is not the will of the people. But the process of democratic legislation is the will of the people; and so the fingerprints of the legislators are indeed the fingerprints of the people. The law is revered because democracy is revered; and in this sense legalism in America may be regarded as a philosophical glory.

Yet it would be going too far to impute philosophical glory to David Boies and the other justification artists who have taken over the outcome of the election. The law may begin in principles, but it ends in interests; it is a charged field where principles may be traduced by interests and interests may be disguised as principles. Its dark side pushes even as its light side pulls. "If you want to know the law and nothing else," Oliver Wendell Holmes declared, "you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict, not as a good one, who finds his reasons for conduct, whether inside the law or outside of it, in the vaguer sanctions of conscience." And since the law is difficult, it is also manipulable. The Supreme Court verdict looks like an invitation to more challenges and more casuistry. And so the drama in Florida seems more and more like a war between "our" specialists and "their" specialists, between "our" mercenaries and "their" mercenaries.

Is this election, then, a civics lesson? A cautionary one, perhaps. About the moral or historical dimension of this or any other convulsion in American life, lawyers have very little to teach. We are a nation of laws, but we are not only a nation of laws. The truth is that the authority of the lawyer in America is owed increasingly to the depletion of authority in America. There is not a cleric, or a public official, or a philosopher, or a writer, or a university president whose thoughts might give our society pause. Is this because our society is too addled and accelerated to pause, or because the higher callings are themselves too busy making known to the press their availability for interviews? Whatever the case, America cannot get by only on the authority of Oprah Winfrey. The election of 2000 is demonstrating what the campaign of 2000 demonstrated: that these are content and shallow days, and days of aiming low. ■



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# NOTEBOOK

**AND 62 PERCENT SAY CHAD IS SOMEONE THEY WENT TO HIGH SCHOOL WITH:** The moral high ground in the Florida recount, as in all public controversies in America, is presumptively held by the side that comports most closely with the view of the majority. And so the polling industry—after a brief and blessed post-election banishment—has returned to convey the public's opinion, which is breathlessly interpreted by the media. Trouble is, it's hard to figure out quite what the public thinks. Last Monday, for instance, ABC News reported that its poll shows that "at least 57 percent favor a quick end to the impasse." But "at the same time a majority says the most important thing is not speed, but accuracy." On the same day, CBS News rolled out a poll showing that "pressure is building for a resolution of this election without end." But wait! That very night, CNN reported that its own survey showed that "the American public is not overly concerned about the situation and, in fact, is becoming less concerned as time goes on." On the specific procedural questions, the public's view grows even murkier. When asked by Gallup if hand-counted ballots should be included in the final tally, the public says yes, by a 23-point margin. But—"perhaps a little paradoxically," notes Gallup, in a dramatic understatement—an equally large percentage think a machine recount is *more* accurate than a hand recount. From this one might deduce that the public holds a delicately nuanced view of the Florida recount—they believe, for instance, that a less accurate tally is actually better. Or maybe we should conclude that the public has no idea what's going on and that trying to fashion a legal procedure for determining a legitimate president by listening to opinion polls is as futile as it is morally destitute.

**MUAMMAR'S LITTLE HELPER:** There may be at least one good thing about a Bush victory, should it occur: We'll finally be rid of Pierre Salinger. In November the former JFK press secretary and ABC newsman promised to live out his days outside the United States in the event of "any more Bush presidents." It won't be a moment too soon. Salinger—who for the past several years has been promoting conspiracy theories, picked up from the Internet, about the 1996 crash of TWA Flight 800—recently latched on to another aviation tragedy: Pan Am Flight 103, which was blown up by terrorists over Lockerbie, Scotland, in 1988. This week, at the trial of the two Libyans charged with bringing down the plane, Salinger was called by the prosecution to testify about interviews he conducted with the defendants for ABC in 1991. But Salinger repeatedly strayed from prosecutors' questions, instead holding court about his own theories as to who blew up Pan Am 103. When prosecutors and defense lawyers finished their questioning, Salinger was reluctant to leave the witness stand. "That's all? You are not letting me tell the truth about who did it," Salinger declared. "These two had nothing to do with it.... I know exactly who did it." Salinger was dismissed before he could finger the real culprits, but it's not terribly surprising that he believes in the Libyans' innocence. After all, his other notable hobby in recent years has been the rehabilitation of Muammar Qaddafi. As TNR previously reported ("The Ignoble Bard," by Nurith C. Aizenman, May 4, 1998), in 1998 Salinger wrote a fawning preface to Qaddafi's literary masterpiece, *Escape to Hell*, portraying him as not a strongman but a kind of North African FDR. "When ... Qaddafi took power," Salinger dutifully reported, "he effected huge changes in restructuring the nation to make sure that there were no homeless people or unemployed or badly paid citizens." As for the notion that Qaddafi sponsored terrorism, Salinger wrote: "I was allowed to visit areas the U.S. government had proclaimed as terrorist camps. They had been put to a stop and turned into places of residence for Palestinian immigrants.... While in Libya, I was allowed to visit an area that the Americans said was being used to create chemical weapons. When I went there, it was clear that they were not creating such armaments." Salinger says that should Bush win, he'll move to France. Maybe he should consider Tripoli.

**TALLAHASSEE ÜBER ALLES:** We entirely sympathize with those who find the Florida recount struggle a dispiriting moment in the recent history of American democracy. But some news organizations are a little too predisposed to being dispirited. Last week an NPR reporter interviewing a group of Polish immigrants in Brooklyn who escaped the Holocaust noted that the men had "lived through the worst that humanity has to offer." Or had they? "Does it make you disappointed in America to see what's happening?" the correspondent queried. "When you came to this country, you were coming seeking freedom, seeking democracy.... Is this democracy that we're seeing now?" Fortunately, the elderly immigrants resisted NPR's efforts to elicit parallels to the Nazi occupation. As one succinctly put it, "Is here the best." We doubt NPR was convinced.

**A NATION DIVIDED:** "This is the strangest, saddest Thanksgiving week since 1963."—David Broder, *The Washington Post*, November 21

"This is going to be a Thanksgiving to remember. Never have Americans had more to be grateful for."—Gail Collins, *The New York Times*, same day

**OH, THERE IT IS:** "Where is the character assassination on the part of the Bush campaign? Where is the character assassination?"—William Bennett, on CNN's "Capital Gang," November 18

"The vice president lies reflexively, promiscuously, even pathologically. He lies on matters large and small, significant and trivial, when he 'needs' to and when he doesn't, on matters public and private, about his opponents and his family."—William Bennett, *The Wall Street Journal*, October 11

**SPINNING IN HIS GRAVE:** "This is clearly the start of something big."—Venture capitalist Tim Draper on his California voucher initiative, which won 29 percent of the vote; *The San Diego Union-Tribune*, November 19 ■



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## On the Hill

# Lott Weaker

*By* Michael Crowley

The leader is enfeebled. He won his post by a tiny margin. The opposition party is energized and bitter, vowing to block his every initiative. He's considered unlikely to muster the bipartisan goodwill he needs to govern. Washington opinion holds that it's only a matter of time till he's hounded from power.

The next president? No, the reigning Senate majority leader, Trent Lott. While media attention has focused on the problems that Al Gore or George W. Bush will face, few have noticed that there's likely to be a corresponding power vacuum at the head of the Senate. Many of the consequences of the 2000 election remain freakishly unclear, but one seems fairly certain: Trent Lott is a much less powerful man than he was three weeks ago.

The main reason is that while House Republicans did better than expected on November 7, the Senate GOP saw its majority shrink by three—to a precarious 51 seats. (A 50-50 split is still possible, pending a recount in Washington state or a Gore presidency.) Many Senate Republicans are looking for someone to blame, and the senator from Mississippi is the obvious target. "There's a lot of discontent, a huge amount of frustration," says one GOP Senate aide. "Everybody is mad at Trent," a Republican senator explained to *Roll Call* last month.

No one seems likely to supplant Lott as Senate majority leader, but that's largely because right now it's not that attractive a perch. "Why would anybody want it?" asks a GOP Senate staffer about Lott's job. "It's like running for mayor of Beirut."

And Lott's enemies don't think they need his job to take control of the Senate agenda. With conservative senators (and Lott allies) John Ashcroft of Missouri and Spencer Abraham of Michigan voted out of office on November 7, GOP moderates are already reaching across the aisle to their Democratic counterparts. And their vision of a more cooperative, bipartisan Senate is not one in which Lott has a starring role. "I think the majority leader is not going to be able to dictate what happens," concludes centrist Louisiana Democrat John Breaux.

In fact, one star of the bipartisan coalition that hopes to wrest power from Lott is the Mississippian's longtime nemesis, John McCain. Now that he has a national constituency under his belt, McCain could serve as a deadly foil to the dour, plodding Republican leader. It will be awfully hard for Lott to continue thwarting McCain's pro-reform, anti-pork agenda. And if Al Gore wins, some Republicans will probably treat McCain as the presidential-nominee-in-waiting, making him still harder for Lott to control.

Already, in what some interpret as the moderates' initial power play, Senator Pete Domenici, a New Mexico pragmatist, has launched an unexpected challenge to Idaho conservative Larry Craig, one of Lott's top lieutenants, for chairmanship of the Senate GOP's policy committee. Domenici insists he merely wants to try out some new ideas. But anti-tax activist Grover Norquist, who is well-steeped in GOP Kremlinology, says Domenici's staff has been advertising the challenge as "a screw-you-gram" to Lott.

But probably the greatest threat of all comes not from McCain or Domenici but from Nebraska Senator Chuck Hagel, a kind of McCain-in-training who, unlike the Arizona senator, has his eye on Lott's job. A Vietnam veteran and self-styled truth teller like his Arizona counterpart (he recently broke with his party to back a statewide hand recount in Florida), Hagel is becoming the sort of Capitol Hill "maverick" for whom the media swoons. And Hagel, too, is a campaign finance reform crusader. (His version would limit soft money contributions rather than entirely ban them, to avoid the possible constitutional flaws of the hallowed McCain-Feingold bill.) He and McCain may humiliate Lott even before the end of January by finally spiking a campaign finance reform bill down his throat. "I don't see any way around it," Hagel says. "I'm going to be very active with that. We *will* get campaign finance reform."

Hagel admits that "quite a few" senators have approached him about a challenge to Lott. But for now he seems content to help lead the moderate cabal that will cause Lott fits. And the Democrats are only too happy to lend a hand. Since the election, Senate Minority Leader Tom Daschle has spoken of "two-way street" compromises and even suggested he might be willing to cut a deal with Republicans on their cherished estate tax. But Daschle's friendly talk is laced with arsenic: When asked about his ability to deal with Lott, he tossed off rote platitudes before quickly hailing—guess who?—McCain and Hagel for their ability to work with Democrats.

Some Republicans, including Norquist, say Lott is getting a bum rap. Lott never had enough votes to block Democratic filibusters or overturn President Clinton's vetoes, Norquist says, adding that Republicans should be grateful Lott avoided the election-season government shutdown over the budget that Clinton seemed to be angling for last month. Other Republicans note that many of the GOP's



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Senate losses were beyond Lott's control. After all, Missouri conservative John Ashcroft was ousted by his dead opponent's widow in a bizarre sympathy vote. Longtime Delaware Senator Bill Roth was doing a fine job of fending off whispers about his age (79) until he fainted—twice—in public. And Abraham, according to GOP apologists, was snuffed by an insurmountable labor effort on behalf of his Democratic opponent, Debbie Stabenow.

But, fair or not, the criticism seems to be taking its toll. Lott's detractors warn that to maintain power, he will need to adapt to the new, less partisan agenda that Hagel and McCain are pushing. But, asked this month about Hillary Clinton's election to the Senate, Lott publicly mused about her possible demise, suggesting that if "lightning strikes" she might not claim her New York seat after all. Even as the senator's aides pleaded that he had been misquoted, Lott was offering another round of macabre insinuation, telling *U.S. News & World Report* that Republicans may yet expand their majority because "there are Democrats who are getting pretty old ... [and] others who need to watch their weight." This bipartisan stuff is not going to be easy. ■

**Why crises at home don't hurt America abroad.**

# Domestic Abuse

*By* LAWRENCE F. KAPLAN

MAYBE IT'S THE sun. Or the early-bird dinners. But Florida seems to be having a narcotic effect on otherwise sober minds. Possibly the silliest commentary so far has come from Bush consigliere James Baker. Warning that the recount mess has created "uncertainty abroad" and that "some of our ... adversaries overseas [are] looking on this with great interest," Poppy's secretary of state suggested that, because the election had left America vulnerable overseas, it was time to declare George W. Bush the victor.

Baker isn't the only Republican invoking national security as a pretext for shutting down the vote count. Virginia Senator John Warner cautioned that the circus in Florida "might lead someone who wants to strike at the United States to do so." And, likening America's situation to that of the Greek and Roman empires in their final days, Ohio Representative John Boehner worried that Americans don't "realize the great threat." Pundits, too, are concerned. "Leaders like Saddam Hussein," warns Charles Lipson, director of the University of Chicago's Program on International Politics, Economics and Society, "might think that there is enough confusion in the U.S. to make it safe for them to precipitate a crisis." Indeed, the notion that the ballot crisis could endanger American security has in the last month become one of the foreign policy commentariat's favorite clichés.

Fortunately, it's sheer invention. Politicians have long invoked foreign perils to cut short losing battles at home. During the Monica Lewinsky saga, for instance, Democratic Representative Martin Frost fumed that the impeachment debate "sends entirely the wrong message to Saddam and to the rest of the world.... The majority may well have blood on its hands by starting this proceeding today." President Clinton, too, has been known to wield the national security card to score political points. "The secretary of state reports that this shutdown is adversely affecting the national security of the country," the president gloated during his 1996 budget battle with Newt Gingrich. In a similar vein, then-Senate Minority Leader Bob Dole grumbled during the Iran-Contra scandal that the proceedings had to be concluded quickly because "our country cannot be strong unless our president is strong." And, during Watergate, Richard Nixon and his lieutenants routinely invoked national security and America's standing overseas to impede and discredit the investigations.

BUT IN NONE of these instances were the Cassandras proved right. The claim that political ordeals at home invite challenges from abroad suffers from two main defects. First, it has very little basis in fact. To be sure, when the domestic controversy concerns foreign policy—as with the protests against the Vietnam War or the congressional opposition to the war in Kosovo—division at home may, and in those instances did, embolden America's foes. But that's not the case here. American jets will continue to patrol the no-fly zones above Iraq regardless of how Palm Beach classifies dimpled chads—just as they did during impeachment and the government shutdown. And the dollar is doing fine. America's relevant foreign policy institutions—particularly its military, diplomatic, and central-banking establishments—function at a considerable remove from, and largely irrespective of, domestic political crises. And the institutional resilience of the United States government is no secret.

True, the success or failure of U.S. foreign policy depends ultimately on the president. But what Baker forgot to mention is that we already have one. His name is Bill Clinton, and the confusion in Florida has very little to do with him. Indeed, even if the president himself were paralyzed politically—which, arguably, Clinton has been for the past two years—this would probably not tempt America's foes either. While domestic scandal may drain the White House of moral and political credibility, international crises quickly re-empower the commander-in-chief—whose institutional authority over the levers of America's political and military clout remains absolute. Henry Kissinger, secretary of state during Watergate, recounts that, even then, "adversaries did not dare to test ... to what extent [Nixon's] authority had been impaired."

In fact, the possibility that America's foes may be searching for signs of domestic weakness in times of crisis actually seems to stiffen the resolve of U.S. policymakers. "One of the motivations of [America's 1973 nuclear alert in response to Soviet moves in the Middle East], in the minds of some of the Americans involved in the decision," recalls Peter Rodman, a staffer on Nixon's National Security Council, "was self-



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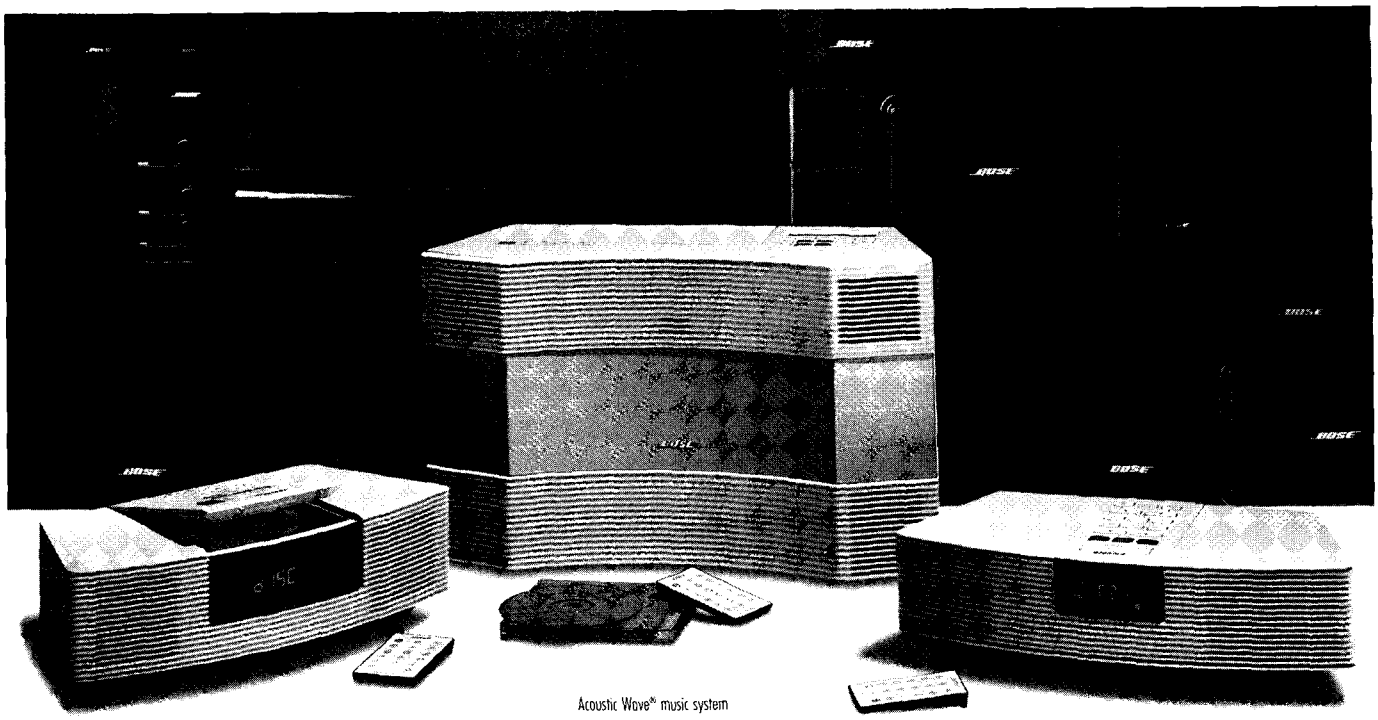

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consciously to demonstrate to all and sundry that the United States was *not* weakened by Watergate and was still capable of acting firmly." Clearly, that same concern was on Clinton's mind when he ordered U.S. forces to bomb Iraq during the impeachment ordeal. Indeed, Clinton wondered aloud whether "Saddam Hussein and other enemies of peace may have thought that [impeachment] would distract Americans or weaken our resolve." When the United States finds itself in trouble at home, it's not Americans but our adversaries who would do well to hunker down.

Yet the real problem with Baker's argument is not just that it's untrue but that it's toxic. Ambrose Bierce termed politics "the conduct of public affairs for private advantage." But efforts to short-circuit the democratic process in the name of national security threaten something far worse: the *nullification* of public affairs for private advantage. Invoking nonexistent perils to still criticism, debate, or—in this case—a vote tally amounts to more than the everyday pollution of public discourse. It's the political equivalent of yelling "fire" when there is none. The claim justifies, and in recent years has been used to justify, almost every conceivable abuse of the public trust. And, clearly, James Baker would like it to do so once more. ■

## How George McGovern won Election 2000 for the Dems.

# For Richer and Poorer

*By* JOHN B. JUDIS

GEORGE MCGOVERN IS many things to many people, but a political mastermind isn't one of them. His 1972 presidential campaign has become a cautionary tale for Democrats, a case study in what *not* to do to win office. McGovern's attempt to build a winning coalition of alienated minorities and upscale, college-educated idealists won him a whopping 37 percent of the vote in one of the worst thrashings in modern American history.

But, in the wake of this year's election, it looks as if McGovern might have been ahead of his time. Indeed, if Democrats want to build a new majority, they should take a page from his playbook. Thanks to basic demographics and the new economy, the two pillars of the McGovern coalition—minorities and highly educated social liberals—have been growing, as a proportion of the electorate, at an extraordinary rate. Combine them with labor—which, after opposing McGovern with regard to the war and the counterculture, has returned to the Democratic fold—and you have an enduring political majority.

You can't see this Democratic coalition simply by looking at national exit polls, because the coalition doesn't exist all over the country—but it exists in enough of the country to win elections. In the Deep South, for instance, there is no strong new-economy or union vote, and national Democrats lose. In solidly liberal states like California, New York, and Massachusetts, Democrats don't need to rely on the poor and the well-educated, because they win the middle class as well. But in the battleground states of the Midwest and Southeast, Democrats rely on a coalition that could be called "McGovern-plus." It includes the minorities and college-educated voters whom McGovern wooed, but also the union voters who spurned him. And, more and more, McGovern-plus wins.

According to exit polls, in Michigan, for instance, Al Gore won 91 percent of African American voters and 64 percent of union voters, who make up more than one-quarter of the electorate. But he also won a majority of voters with advanced degrees and a majority of those who earn more than $75,000 per year. These voters made up for Gore's losses among nonunion white workers earning between $30,000 and $75,000. Gore lost North Carolina, but, in the state's gubernatorial contest, victorious Democrat Mike Easley won 90 percent of African Americans, 55 percent of college graduates, 56 percent of those with advanced degrees, and 57 percent of voters who make more than $100,000—which more than compensated for his losses among whites without a college diploma.

In 1972, McGovern got more votes among minorities than Hubert Humphrey did in 1968. But minority voters, who were primarily black, made up only about 10 percent of the electorate, and in those states where their numbers were higher, the backlash against the civil rights movement led whites to vote overwhelmingly Republican. In the 2000 election, by contrast, minority voters, swelled by Hispanic and Asian immigration, constituted 19 percent of the electorate. (And in certain states, like California, more than one-quarter of all voters are minorities.) Gore won 76 percent of these voters, which meant he needed only 42 percent of whites to beat Bush in the popular vote.

Similarly, in 1972, McGovern beat Richard Nixon in California's Alameda County, Iowa's Johnson County, Wisconsin's Dane County, and Michigan's Washtenaw County—all of which house major universities. Back then, these victories were largely symbolic. But since 1972 the number of college-educated and postgraduate voters has grown rapidly: In 1980, the percentage of voters with at least a college degree was 27 percent; this year it's 42 percent. Eighteen percent of these hold advanced degrees—a category so small before 1988 that polls didn't bother to measure it. Gore won among postgraduates by eight points and among postgraduate white women by 22 points.

Moreover, what were once small college towns have become part of new-economy metropolises like North Carolina's Research Triangle (which includes Duke, the University of North Carolina at Chapel Hill, and North Carolina State) or Northern California's East Bay and South Bay (which include the University of California at Berkeley, Stanford, and Silicon Valley). A Democratic candidate who wins these "college" counties can now win a congressional seat and go a long way toward winning a state election. In North Car-



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olina's fourth district, for instance, which includes the Research Triangle, Easley garnered a large majority, and Democratic Representative David Price, who lost his House seat in 1994 and won it back in 1996, won reelection with 62 percent of the vote. In California's East Bay and South Bay, which used to be primarily Republican, Democrats now hold all seven congressional seats. The area, much of which is highly prosperous, also voted almost two to one for Gore and Democratic Senate candidate Dianne Feinstein.

More broadly, support for Democrats is closely correlated with the growth of the new economy. The Milken Institute of California has constructed a "New Economy Index" that grades states according to such factors as their proportion of scientists and engineers and their per capita R&D expenditures. Eight of the top ten states on the index are now solidly Democratic; of the 20 states with the highest proportion of scientists and engineers, Gore won 15.

This isn't surprising when you consider that many of these new-economy voters—particularly women—are the heirs of McGovern liberalism. They support civil rights, abortion rights, and gun control. They want government to protect the environment and to fund education. As the Republican Party became more identified with the Christian Coalition and the National Rifle Association in the 1990s, they grew disenchanted with it. After the Republican hard right captured Congress in November 1994, they flocked to the Democrats.

In states that are just starting to trend Democratic, like North Carolina, these new-economy voters still constitute an enclave within a voting population that is more traditionally minded on abortion, gun control, and race. But in states like California, Oregon, and Washington, the social ethos of the new economy has pervaded much of society—from the supermarket checker to the doctor and nurse to the computer entrepreneur. In these states, the "change coalition" that McGovern tried to create in 1972 has finally emerged.

To counter this trend, the GOP has geography. Over the next decade, the party will benefit as solidly Republican states like Texas and Arizona gain congressional seats from the current census. But, if the Republicans have geography, the Democrats have demography. In the coming years, immigration and a high birth rate will buoy the proportion of minorities, and the employment demands of the new economy will increase the ranks of the highly educated.

Some Democrats remain skeptical about this McGovern-plus coalition. The New Democrats of the Democratic Leadership Council would prefer a party that did not depend on populist appeals to labor unions, African Americans and Hispanics, or workers threatened by downsizing and outsourcing. The AFL-CIO, meanwhile, would toss overboard the New Democrats who champion free trade and fiscal conservatism in new-economy districts. And some Democrats who still hold seats in rural and blue-collar districts would be more comfortable if the Democrats forgot about abortion rights and gun control. But these gripes are quieter today than they have been in several years. And there's a good reason: For three straight elections now, the Democrats have fared well under McGovern-plus. ■

**The Jackson-Sharpton feud.**

# Uncivil Affair

*By* Eli Kintisch

Al Sharpton has a beef with Burger King. "We will hold the lettuce, hold the cheese, hold the Whopper, until we get our way," he declared on September 19 before announcing his plan to boycott the fast-food giant's New York City restaurants. The reason for the boycott? Sharpton contends that after Burger King promised in 1996 to award more than 100 new franchises in low-income areas to an African American entrepreneur named La-Van Hawkins, the company withdrew the deal. And, according to Sharpton, it's not just Hawkins who's suffered from Burger King's "corporate racism." "La-Van is just the tip of the iceberg," Sharpton declares. "In New York there are thirty minority-owned McDonald's and one Burger King." Burger King, for its part, calls its conflict with Hawkins a "business dispute"—the company claims Hawkins owes more than $6.5 million on a 1998 loan—and defends its record on minority franchise ownership.

So far, so predictable. Except that Burger King has an unlikely ally in its battle with Sharpton: Jesse Jackson. Last month Jackson sent Sharpton a stiff letter warning that a boycott might be counterproductive, since it could harm the "more than 100 black- and brown-owned franchises, employing more than 8,000 people." The boycott, Jackson says, "would be premature."

But Jackson's letter hasn't dissuaded Sharpton and his allies; in fact, it's made them more strident. Sharpton's allies are quick to point out that Burger King has backed Jackson's Rainbow/PUSH Coalition for nearly 20 years; according to the company's estimate, it has given Jackson's group roughly $500,000 (Jackson puts the figure at approximately $125,000). "It is very difficult for me," says Sharpton, "trained by Jesse Jackson to confront the corporate world, to now go in those same corporate suites, and they use the guy that taught me as their protection."

It's not just Burger King. Over and over in recent years, Jackson and Sharpton have butted heads. In the late '60s, the two men walked picket lines together as part of Operation Breadbasket, an offshoot of Martin Luther King Jr.'s Southern Christian Leadership Conference, which demanded that corporations provide capital and jobs for blacks. But in 1997 Jackson founded the Wall Street Project—which, while ostensibly making sure minorities are fairly represented in the financial sector, enjoys funding from many of the firms it's supposed to police. And, while Jackson has taken more of a backroom approach to corporate America, Sharpton has largely stayed on the picket lines. The result is that increasingly, when big business and black protesters go to war, Al Sharpton and Jesse Jackson find themselves on opposing sides.



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THE SHARPTON-JACKSON RIFT began in April 1998 over the Citicorp-Travelers Group megamerger. Sandy Weill, then head of Travelers, knew that to ensure quick regulatory approval of the merger, the new company, known as Citigroup, would have to pledge hundreds of billions of dollars in loans to individuals and businesses in underprivileged areas. Jackson, seizing the opportunity the merger presented for minority entrepreneurs, convened a meeting of prominent African American businessmen at New York's East Side Marriott Hotel on April 12.

Jackson says he called the meeting to explore a cooperative, "mutually beneficial" partnership between the black businessmen and Citigroup. But at least two of the meeting's other participants remember Jackson's pitch differently: They say Jackson framed his relationship with Weill in combative terms, pledging to "take on" the Citigroup chairman on behalf of minority businesses. "[Jackson] said, 'This is only the beginning,'" recalls Frank Mercado-Valdes, a TV executive and Sharpton ally. "[Jackson said], 'You guys are going to be in on a whole set of deals.'" But after making this pitch, Mercado-Valdes says, "then he hit us each up for fifty-thousand-dollar" donations to the Wall Street Project. (Jackson admits donations were requested but strenuously denies any implied quid pro quo.) A number of the businessmen, anticipating lucrative merger-related opportunities, gladly took out their checkbooks.

But the goodwill didn't last long. In early May, Citigroup pledged $115 billion for community investment, and Jackson issued a press release applauding the new company for its "leadership position." But many black businessmen weren't impressed—especially when, a few weeks later, Bank of America and NationsBank, as part of *their* merger, announced they were committing $350 billion for community investment. Although Citigroup said its pledge was lower than Bank of America's because Citigroup has fewer domestic deposits, the discrepancy raised eyebrows. So did a rumor that Jackson had traveled to the April 12 meeting on Weill's private jet. (Jackson insists he took a commercial flight to New York, but Carl Redding, then a driver for Sharpton who routinely chauffeured Jackson when he was in New York, says he picked up Jackson at the Travelers hangar at the Westchester County Airport.) And, when Jackson later endorsed legislation repealing the Glass-Steagall Act—which prohibited mergers between banks and insurance companies (and therefore impeded the Citicorp-Travelers merger)—and also, many felt, weakening the Community Reinvestment Act, some of those present at the Marriott meeting began to suspect they'd been had. "It took a little while for these people to realize that Jackson was really working for Weill and not [for] them," says one black businessman.

And to whom did these businessmen turn in their hour of need? Al Sharpton. Although Sharpton is best-known for his activism (some would say demagoguery) regarding police brutality, in the past few years he's branched out into the corporate world—particularly the world of advertising. In 1998, Sharpton formed a group he would eventually call the Madison Avenue Initiative, which was designed to encourage companies to use black-owned advertising agencies and to advertise in the black media. Suddenly, the Wall Street Project had competition, and black businessmen realized they might have a less compromised (or, depending on your perspective, less reasonable) ally in Sharpton. "Sharpton can't be bought," says one black businessman who's cast his lot with him. "But Jackson can be rented."

NOT SURPRISINGLY, JACKSON didn't seem to appreciate Sharpton's increasing cachet with the black business crowd. So in early 1999, when Sharpton announced plans to hold a Madison Avenue Initiative summit just days after the Wall Street Project was holding its annual conference, Jackson struck back. Sharpton confidants say Jackson told Sharpton to "stick to the racial profiling and police brutality." (Jackson denies he made such a statement.) When Sharpton refused to call off his event, Jackson preempted it, adding an advertising workshop to the Wall Street Project's conference at the last minute. Jackson's conference even featured Federal Communications Commission Chairman William Kennard, who had originally been scheduled to give a speech at Sharpton's event.

But Jackson hasn't been able to shut out Sharpton completely. Indeed, Sharpton has increasingly become a go-to guy for black businessmen in trouble. In April 1998, for instance, Morgan Stanley fired a black real estate analyst named Christian Curry. The company alleged that Curry had abused an expense account; Curry maintained he was let go because of his race and because nude photos of him had appeared in a gay pornographic magazine. Curry sued Morgan Stanley for discrimination, and Sharpton took up his cause, holding a protest outside the firm's Manhattan offices. The case became a public relations nightmare for Morgan Stanley, and the firm eventually settled Curry's discrimination suit for a reported $20 million. During the imbroglio, however, Jackson remained conspicuously silent. Sharpton's allies charge that Jackson's silence stemmed from Morgan Stanley's financial support of the Wall Street Project. "[Jackson's] coziness with Morgan Stanley as a result of the Wall Street Project made Christian Curry expendable," charges one Sharpton supporter.

And now Sharpton has another chance to stick it to Jackson. Weill's Citigroup is acquiring Associates First Capital Corporation, which has a less-than-stellar reputation in the minority community. The bank has been sued numerous times for allegedly abusive lending practices (many of the cases have been settled out of court), and recently the state of Georgia fined Associates $150,683 for violating state insurance regulations. Acknowledging Associates' sketchy reputation, Citigroup has pledged that, as part of the merger, it will clean up the bank. But some black activists are skeptical. Sharpton, for one, opposes the merger, threatening protests and marches unless Citigroup pledges additional billions for community reinvestment. Jackson has taken a more conciliatory tack—convening meetings between activists and Citigroup "for discussion." And, once again, some black activists suspect he's gone soft. "People were saying, 'Is he on our side or theirs?'" says Matthew Lee, a black community activist in Brooklyn who attended one of the meetings with Jackson on



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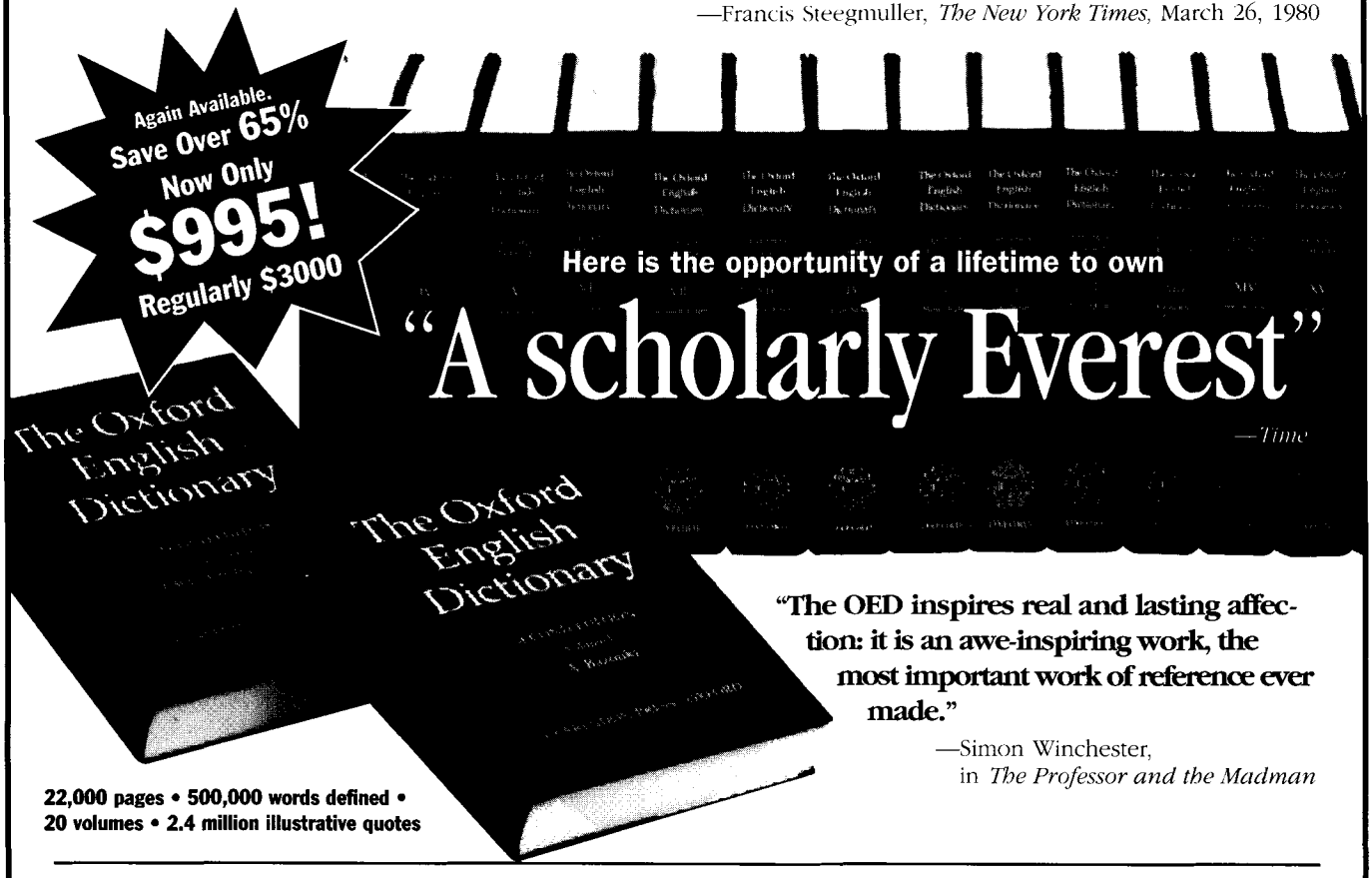


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the Citigroup-Associates merger. "I have a lot of respect for what this man has done, but he better not provide ground cover for this next deal."

The conflict seems likely only to intensify. Sharpton has scheduled a Madison Avenue Initiative conference for February 2001 to pressure high-tech companies in Silicon Valley to hire minority ad firms and advertise in the black media. It's probably no coincidence that Jackson has his own Silicon Valley operation: the Silicon Valley Project, which has forged close relationships with a number of technology firms. Sharpton also says he plans to scrutinize the minority-hiring practices of Detroit's Big Three automakers. Ford and General Motors, again perhaps not coincidentally, have been longtime financial supporters of Jackson's Rainbow/PUSH.

In a way, the tension isn't surprising. While Jackson was once considered the nation's premier black radical, he is today largely an establishment figure—important as much for his ties to the white establishment (witness his work on the Gore campaign's behalf this month in South Florida) as for his street activism. Sharpton, by contrast, while more polished than he was in his Tawana Brawley days, still owes much of his credibility among blacks to his hostile relationship with powerful whites. As similar as their politics appear on the surface, the two men now offer conflicting models of post-civil-rights-era black activism.

Publicly, Jackson, Sharpton, and other black leaders downplay tension between the two men. But that's becoming harder. Percy Sutton, a longtime black political leader in New York, employs a business analogy to allay fears that Jackson and Sharpton are at odds: "Reverend Jackson is the chairman and CEO," says Sutton, "and Reverend Sharpton is the president and chief operating officer." Not exactly a company that inspires investor confidence. ■

## How safe are our voting machines?

# Rage Against The Machine

*By* RONNIE DUGGER

THE BUSH CAMPAIGN has made a lot of questionable assertions in the last two weeks: about the authority of the Florida secretary of state, about the propriety of hand counts, about the need for "finality." But one claim that probably struck most people as incontrovertible was James Baker's statement that "[m]achines are neither Republicans nor Democrats and therefore can be neither consciously nor unconsciously biased."

RONNIE DUGGER is completing a book on the history of voting.

Literally speaking, of course, he's right: Machines don't have political beliefs. But computer programmers do. Just as a dishonest and determined vote inspector can claim to see a hanging chad where none exists, so can a dishonest and determined vote-counting-machine programmer add votes to a candidate's total, transfer votes from one candidate to another, or determine an outcome with a specified percentage spread.

Voting machines, in other words, can be as "biased" as their human masters want them to be. And when they are it's a lot harder to detect. To steal votes in the South Florida hand recounts, you'd have to escape the eyes of an army of bipartisan observers and reporters. Stealing votes by reprogramming the voting machines, by contrast, would take place deep within the zeros and ones of computer code, invisible to public officials or suspicious candidates. Indeed, even the software's own designers admit that without security checks on the process and a hand count as a fallback, we'd have no way to know whether such fraud had taken place.

ALTHOUGH BAKER HAS called ballot computers "precision machines," there are plenty of documented cases of machine errors. In Missoula County, Montana, in 1968, machines counted ballots cast for Richard Nixon as votes for Hubert Humphrey, and vice versa. In 1978, a candidate for comptroller in Illinois successfully reversed the outcome of an election in one county because the computer had "flipped" the results. Computers in Orange County, California, in 1980 gave about 15,000 Democratic-primary votes for Jimmy Carter or Edward Kennedy to Lyndon LaRouche or Jerry Brown. That same year, in San Antonio, computers were unable to count more than 9,000 votes for any office on the ballot, depriving Ronald Reagan and other candidates of votes.

Most of these problems resulted from faulty equipment or programming errors. But fraud can occur, too. The nation's more than 10,000 voting jurisdictions buy their computer equipment from privately owned companies. The companies write the basic "source code" on which the machines operate, but those codes must then be customized for each jurisdiction. Sometimes the companies do this customizing themselves. Often, though, local election districts bring in their own outside computer specialists to do the work—creating additional opportunity for foul play.

In fact, it would be relatively easy for somebody with programming knowledge to instruct a computer to add extra votes or to discount some—and to do so in a way that would escape notice. "There are at least a half-dozen places, maybe a few less, where you could lay in a Trojan horse [for instance, a secret vote-counting control algorithm] in that source code—lay in routines to do whatever you wanted to in an election," Wayne Nunn, a computer specialist who examined the source code in a contested West Virginia election, once told me. (Then, to prove his point, he sat down at his computer while we were talking and, within ten minutes, had rewritten code so the computer made two and two add up to five.) "I have no question," says Randall H. Erben, President Reagan's special counsel for ballot integrity, "that somebody who's smart enough with a computer could probably rig it to



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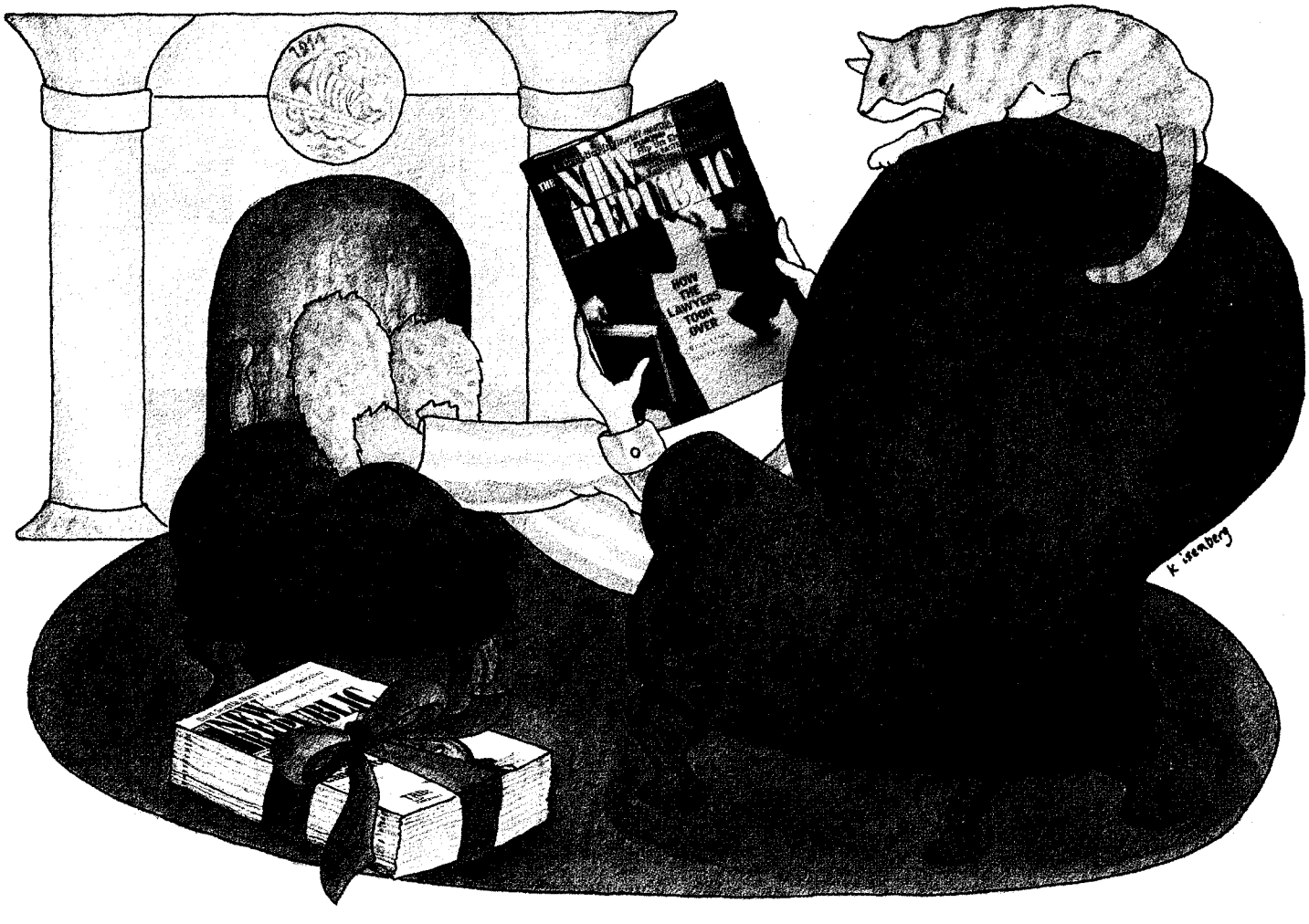


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mistabulate.... It's going to be virtually undetectable if it's done correctly."

Election officials insist that they run "logic and accuracy tests" to prevent tampering. But these tests are often woefully inadequate. Dr. Peter Neumann, a senior computer specialist at SRI International in Menlo Park, California, says a skilled user of a conventional computer system can "do almost anything he wants and leave no trace.... You effectively have to trust the entire staff of the corporation that is producing your software. Every single member has to be trusted." Because of poor security controls in many election districts, Neumann says, it is "relatively easy" to start the counting with, say, 3,000 votes for one candidate and zero for the other, even though the counters would indicate zero for both. "I program it," he explains, "so that, after the test is run ... it simply adds thousands of votes."

AND THERE'S ANOTHER impediment to safeguarding software against manipulation: The election companies consider their codes private property and are willing to go to court, citing intellectual property laws, to keep candidates or public officials from looking at it. This is precisely what happened in—you guessed it—Florida twelve years ago, when Democrat Buddy MacKay lost his Senate bid to Republican Connie Mack by a razor-thin margin after a recount. Immediately after the election, suspicious of "a problem in the software," MacKay asked to examine the vote-counting computer codes in three of the very same predominantly Democratic counties at the center of the current battle. But those counties (and two others) refused, saying the codes were the private property of the vote-counting companies involved. Discouraged, MacKay gave up.

"My understanding is that it's possible to program a computer for it to count wrong for a while and then straighten itself out," MacKay says. "Now that I realize the level of sophistication, I realize how easy it would be for somebody to, in effect, rewire that program for a brief period of time and then have it straighten itself out. I don't know how anybody could prove that."

None of this means Mack or his supporters stole the election through software sabotage—any more than it means somebody in the Bush camp (or, for that matter, the Gore camp) stole votes this year. The point is less that fraud *has* occurred than that it *could*—and we might never know. "Of course, it would have to be a national election," mused David Dunbar, former president of Computer Election Systems, the company that built the Votomatic punch-card machines on which the ballots of 37 percent of American voters are still counted. "You'd have to concentrate on a few states and counties and precincts that you'd need. It isn't a matter of millions of votes. You'd need ten votes in this precinct, 50 there, 100 there.... You'd have to be careful about the politics and the precincts. You'd have to rifle in on the ones that were crucial. From there on it would be easy."

Dunbar told me he has lost sleep worrying that someone might bribe his programmers. So should the rest of us. If the Florida fiasco is going to prompt a national reexamination of the way America runs elections, that reexamination should start with a recognition that the machines that count our votes are not today—and probably never will be—completely safe. It's just one more reason that counting ballots the old-fashioned way, by hand, is still the best guarantee that the voters' will is observed. No matter what James Baker says. ■

## Why Florida election law isn't so crazy after all.

# Hands Off

*By* JONATHAN RAUCH

LAST WEEK, AFTER she tried to slam the door on hand recounts in three Democratic counties, Florida Secretary of State Katherine Harris received enough abuse to sink the USS *Cole*. The Florida Supreme Court's subsequent ruling overturning her efforts only reinforced the view that Harris is a partisan hack. Maybe so. But that doesn't necessarily mean she's wrong or the court is right. There is, in fact, a strong, substantive argument for slamming the door on manual recounts—even if some voters' fingers get mashed.

It's true that many jurisdictions (including George W. Bush's Texas) provide for manual recounts in contested elections. But what's appropriate for state and local elections is not necessarily appropriate for a presidential election that could be tipped by a handful of counties in a single state. If it takes a long time to seat a governor, attorney general, or member of Congress whose claim to victory is tenuous, that is unfortunate, but it will not weaken the presidency, embarrass America abroad, or erode the legitimacy of the country's only national election. The presidency is different. Post-election wrangling, including protracted recounts, should be avoided, even at great cost. And manual recounts are especially dangerous—for two reasons.

First, hand recounts under conditions of extreme partisanship and stress almost inevitably raise suspicion. Machines err, and they may well be more error-prone than people. But machines don't carry party membership cards. They may bungle elections, but they don't steal them (at least not as far as we know; see "Rage Against the Machine," by Ronnie Dugger, page 22). Reporters watching through windows and party observers standing over tabulators' shoulders will never, and probably should never, obviate the fear that recounts in jurisdictions controlled by Democrats (or Republicans) will tend to favor Democrats (or Republicans).

Second, and more fundamental: In one crucial respect, the first vote count is the best. It is the only count that is truly double-blind. That is, neither the voters nor the vote counters can more than guess at the effects of their decisions on the overall outcome.

This is no longer the case, of course, after the initial vote

JONATHAN RAUCH is a senior writer for *National Journal* and a writer-in-residence at The Brookings Institution.



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count. Partisans on both sides then know exactly how many additional votes it would take to tilt the election to their candidate. And this knowledge inevitably raises questions about every decision made regarding the subsequent recount efforts. In Florida, Democratic demands for selective recounts in Democratic-leaning counties are troublesome enough, smacking as they do of cherry-picking. If the selective recounts are performed manually, the problem is compounded. When partisan election officials know for a fact that a few votes could change the outcome, they can't help but be tempted to tilt their recounts accordingly. And, even if they resist the temptation, who will believe them? The counters simply know too much about the votes' importance to seem above suspicion.

Consider Broward County, a Democratic stronghold. Democratic canvassing-board officials there justified their manual recount on the grounds that it might affect the election and that a test recount had turned up a few additional votes for Gore. Broward's canvassing board, unlike Palm Beach County's, possessed no compelling external evidence that anything was wrong with the original machine tally: no Election Day complaints from voters, no unusually large number of ballots thrown out. The board went ahead anyway, on a party-line vote.

The Broward Democrats insisted they just wanted accuracy, and I'm sure they believed themselves. What corrupted them was not their intentions but their knowledge. Because they knew in advance that their recount would favor Gore and might win him the election, their procedure, however well-intentioned, was indistinguishable, even in principle, from vote-rigging: recounting with the specific purpose of changing the outcome.

THERE'S A CASE for banning manual recounts in presidential elections, but that's probably not politically feasible—anyway, no one thought to do it in Florida. An imperfect but still effective solution, however, might limit the damage. For instance, a state could set a time limit. The state could presume that the first count is the best and demand that, absent widespread fraud or machine breakdown or intervening acts of God, any subsequent recounts must be finished by some early date certain. What date? Well, a month after Election Day seems unreasonably long; a day seems unreasonably short. How about a week? That sounds as reasonable—or unreasonable—as any other deadline, and it is essentially what Florida law, as interpreted by Harris, would have done. True, a one-week drop-dead date arbitrarily limits the same manual recounts that it authorizes. But that is precisely its advantage. It sets a tight limit on backward-looking recounts, and does so *before* the election—that is, before anyone knows what sort of deadline helps or hurts any particular candidate.

In its decision, the Florida Supreme Court took the opposite tack: It adjusted the deadline to fit the recount, instead of the other way around. It effectively accepted the rationale offered last week by Palm Beach County, which asked Harris for more time on the grounds that "clearly the results of the manual recount could affect the outcome of this very close presidential election if the manual recounts in the other precincts also vary in this degree from the machine counts." That, however, is precisely the rationale for *not* permitting recounts after preset deadlines. After all, some ballots are always ambiguous, and those ambiguous ballots only matter when they might "affect the outcome of [a] very close presidential election"—something that can be known only after the fact. If the rule is going to be that election-tipping ballots get counted by hand after the rest of the returns are in, then the whole principle of the double-blind election goes out the window.

Preserving that principle—that is, preventing selective recounts by partisan officials who know more than they should—is not about electing one candidate or another. It is not even mainly about finishing elections quickly. It is about preserving the blindfolded integrity of the electoral process and ensuring that, to the greatest extent possible, no votes receive special treatment (or are counted in light of special information, which amounts to the same thing). If those aren't worthy principles, I've never seen any.

Unfortunately, "Let's get this over with" was about the closest the Bush people came to a principled argument. That didn't sound particularly compelling against Gore's characteristically pious (and characteristically sly) demand that "every vote [be] counted fairly and accurately." Instead of arguing for their policy on its merits, the Bush campaign, along with Harris, argued on the law. The public thus had little reason to doubt that, as *The New York Times* editorialized in a news story, Harris's effort "seemed a clear tactical move to freeze the election results in Mr. Bush's favor."

Right from the start of the campaign, Bush adopted thoughtful and principled policies that he had trouble explaining in thoughtful and principled terms. In Florida, his campaign is ending as it began. ■

**Go ahead, lobby the electors.**

# College Try

*By* GREGG EASTERBROOK

AS OF THIS writing, Al Gore appears to have gotten his manual recounts in South Florida. But what if they don't give him the votes he seeks? Many Democrats will retreat to their demand of two weeks ago: a revote in Palm Beach County, where tens of thousands of votes were rejected or mistakenly cast because of the now-infamous "butterfly" ballot. But Florida Circuit Court Judge Jorge Labarga has correctly rejected a revote, and Gore supporters will likely lose on appeal as well. So should Gore concede? Not necessarily. There's an alternative strategy open to the vice president if George W. Bush ends up with the Florida electors: lobbying them and their fellow electors from other states to switch sides. Although Gore has said he would not accept the support of electors pledged to Bush, it's a stance he should



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reconsider. Unlike revoting, appealing to electors is legally and politically defensible.

The problem with holding a revote in Palm Beach County is that it is blatantly unconstitutional. Article Two, Section One of the Constitution specifies that the day of voting in presidential elections "shall be the same throughout the United States." Any localized revote would clearly violate this standard. The Supreme Court has consistently held, as recently as the 1997 case *Foster* v. *Love*, that states cannot stage presidential or congressional voting on days other than those chosen by Congress.

Some proponents of a Palm Beach revote argue that it would not be an election—and thus not constitutionally barred—but rather a correction of voter confusion in accordance with a state's power to regulate the choosing of its electors. But trying to maintain this pretense quickly leads to absurdities. Consider Gore adviser Laurence Tribe's November 12 op-ed in *The New York Times*. Tribe proposed that Palm Beach County try again, with all those who voted on November 7 signing sworn affidavits promising to revote the same way, making the event not a vote but an exercise in confirming the accuracy of the first ballot. To ensure that the revote outcome would only "correct" the initial ballot, Tribe further proposed that courts impose a formula that would deny any more votes to Bush or Ralph Nader, permitting more votes solely for Gore or Pat Buchanan. This is transparent nonsense. Putting aside the impracticality of arranging for 460,000 sworn affidavits, Tribe's proposal asks judges to order that the only possible outcome of a Palm Beach County revote be a Gore increase.

And even if a revote were constitutional, it would still be a bad idea. No one can doubt that some Palm Beach voters were befuddled by their county's ballot. But bungled votes are a fact of life in every election. While double-punching and other errors invalidated about 6 percent of Palm Beach County's ballots, the rate nationally was about 2 percent—which meant roughly two million ballots were rejected across the country. On what grounds of fairness do the 30,000 people whose ballots were rejected in Palm Beach County deserve a special second vote if the roughly two million other Americans whose ballots were also rejected get no similar opportunity? Additionally, voters in Palm Beach would receive that special vote with the benefit of future knowledge unavailable to everyone else. One part of the country delaying votes to achieve leverage based on knowledge of how other parts had already voted is something the Founders explicitly tried to guard against when they specified that all national voting be held on the same day.

WHICH IS WHY Gore backers might turn their thoughts to another, less discussed strategy: lobbying electors. When word leaked that Democratic operative Bob Beckel had begun an informal effort to find Bush electors who might jump to Gore, the punditocracy reacted with horror—and the Gore camp publicly distanced itself from Beckel's efforts.

But the Founders wouldn't have been horrified. Most thought the electoral college would be a deliberative body whose conclusions were not set in stone—otherwise why not skip the electors altogether and just award electoral-college numbers automatically? As recently as 1952, Supreme Court Justice Robert Jackson wrote that electors were intended to be "free agents" who would come to an "independent and nonpartisan judgment" in their choice for president.

It's not surprising, therefore, that neither the Constitution nor federal law binds electors' choices. In each of the seven cases since World War II when an elector flipped—most recently in 1988, when a West Virginia elector pledged to Michael Dukakis voted for Lloyd Bentsen—Congress has recognized the vote as valid. Under the Constitution, Congress can contest the seating of specific electors. But, once electors are seated, Congress can do nothing about how they vote: The electoral college could choose Howdy Doody, so long as he's 35 years old and born in the United States.

To be sure, some states bind electors; Michigan and North Carolina, for example, provide that electors who switch sides get replaced, and their votes are canceled. But these states are the exception. Most state-level elector regulations are weak or lack enforcement provisions; Washington state, for instance, fines "faithless" electors $1,000, but the switched vote stands. About half the states have no constraints on electors. One hundred forty of the Bush electors come from states with no restrictions on switching sides, and many other Bush electors hail from states where the rules are weak.

SUPPOSE BUSH LANDS Florida. The governor would then hold 271 electoral votes, with 270 needed to win. Persuading two electors to switch from Bush to Gore would throw the choice to the House of Representatives. Persuading three would give Gore the presidency.

Gore could make two potentially persuasive arguments to electors. First, he could say that, as the winner of the popular vote—at this writing the vice president leads by 301,000 votes, more than Kennedy's margin over Nixon, and the lead is expected to stand—he is the people's choice. Though the electoral college supersedes the popular vote, there's no reason electors cannot take popular sentiment into account. Second, Gore could question the legitimacy of Florida's final count. If all recounts are included and Bush still wins, the vice president has no case. But if not all the recounts sought by Gore are credited—because of the Supreme Court's tight deadline or further challenges—then the vice president could claim he is the true victor of both the popular vote and the electoral vote. Since the Bush electors are staunch Republicans, most won't be persuaded to switch no matter what the circumstances. But if it appears Gore really got more votes, might not three have crises of conscience?

A Gore presidency based on electors' flipping their votes would produce an outcry, of course. But so would a Bush presidency, if it is produced by some form of stonewalling. If nothing else, appealing to electors to switch sides would force the country to confront what the electoral college really means and whether it should be changed. And if Gore became president in this way, he would enter the Oval Office on the basis of persuading Republicans of his case. What could be more legitimate, politically, than that? ■



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**The final triumph of the American lawyer.**

# Power of Attorney

*By* Ryan Lizza

FORT LAUDERDALE, FLORIDA

DAVID FINK NORMALLY charges $395 per hour. He is the managing partner of a highly regarded Detroit law firm and a cum laude graduate of Harvard Law School. But on his first day in Miami as a volunteer lawyer for the Gore Recount Committee, his biggest contribution consisted of having his twelve-year-old daughter download a Miami federal court's opinion via a high-speed Internet connection at his home in Michigan and fax it to the office of Mitchell Berger, one of Gore's top attorneys. A couple of days later, Fink, who usually has an army of associates and paralegals working for him, helped out by carrying pleadings to court for the other attorneys.

Is he upset? Quite the contrary: He's having the time of his life. "I was a bag carrier and proud of it," he says giddily. "I offered to park the car for them." This Sunday, taking a break from helping review ballots in Broward County, Fink gazed up at one of the giant TV screens on the wall of Broward's Emergency Operations Center. There he saw footage of a massive fire at the Marriott Mountain Resort in Vail, Colorado, where he owns a condominium. Did he rush back home? Not a chance. "I went back to the proceedings," he says, laughing. "If my vacation home is damaged, then that's barely meaningless in the context of what we are doing here.... This is an opportunity to take part in a legal proceeding that could lead to electing the president of the United States. What lawyer in his right mind wouldn't drop every other responsibility to have the tiniest role in that process?"

Welcome to lawyer paradise. Many Americans find the Florida election battle a depressing spectacle of hyperpartisanship, legal technicalities, and false piety, but for the lawyers streaming in from around the country, it's the best thing ever. Sure, lawyers have played prominent roles in other recent high-profile slugfests—O.J., impeachment, Elián, Microsoft—but never before have they picked a president. And, not surprisingly, they deem this turn of events a sure sign of the enduring greatness of American democracy. "We are so lucky to live in this country," Fink sighs as he reflects on his work. "I wish my grandparents were alive to see this."

AS MANY COMMENTATORS have noted, the recount battle shares many of the attributes of an election campaign. But the usual campaign hierarchy has been turned on its head. Before November 7, the people who mattered were the pollsters, the admen, the message guys, the get-out-the-vote operatives. Today, they all take a back seat—a *way* back seat—to the lawyers. Kevin Canan spent most of the campaign as Gore's field director in Connecticut—not the sexiest job, given that the Constitution State was never really in play. But, because he has a legal background, Canan now holds a spot on the coveted Broward legal team, where he spends his time in the private room where members of the county canvassing board decide on disputed ballots. "I've worked on impeachment and now this, and I haven't even been admitted to the bar yet. The rest of my legal career may be a letdown," says the 30-year-old attorney. Likewise, a law degree landed a young Gore liaison to the business community, named (I kid you not) Chad Johnson, a plum job as one of the Broward floor supervisors, overseeing a team of Democratic observers.

Up in Tallahassee, the nerve center of the Gore legal operation, it's the same story. Except for a few people who handle the press, campaign operatives without legal degrees are largely useless in this brave new recount world. But those who have J.D.s are on the front lines of history. Jeremy Bash was a 29-year-old national security aide before being pressed into legal service by Ron Klain, Gore's former chief of staff, who now manages the Tallahassee team. Working with Bash is Dan Feldman, a deputy press secretary to Joe Lieberman during the campaign, and Mark Messenbaugh, another relatively junior Gore staffer. The three of them, along with practicing attorney Rich Lucas, now serve as junior associates to Gore's top legal guns—Klain, Berger, David Boies, and W. Dexter Douglass. "We're like four transactional attorneys writing one of the most important briefs in the history of the country," says one of the young associates. "I can tell you ten people off the top of my head who would kill to do this. To be in this position is really amazing."

BUT, WHILE TALLAHASSEE houses the brain trust, no city can match the sheer volume of lawyers—especially Democratic lawyers—currently trolling the streets of Palm Beach. In the recount's frantic first days, as Democrats scurried to document the complaints of locals baffled by the butterfly ballot, Democratic-leaning law firms across the county put out a red alert for attorneys willing to fly south. The Washington office of the firm Jenner and Block, for example, on November 10 sent its lawyers an e-mail message asking for volunteers to go to Florida. The response at Jenner and other big firms was so overwhelming that South Florida is now awash in highly credentialed young attorneys, often



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DAVID COWLES

without much to do. "I got there, and the first thing I did was an hour of data entry," says Noah Feldman, a Rhodes Scholar and former Supreme Court clerk now at Harvard's Society of Fellows. "There was a line of lawyers waiting just to do affidavits. They were all desperate to do something." Matt Axelrod, a 30-year-old Yale Law School graduate who works at the Boston firm Hill & Barlow, was reduced to running errands like shopping for office supplies.

But sometimes opportunity comes to those willing to run errands. Eventually, Feldman and Axelrod had a hand in drafting some of the most significant legal briefs in the whole recount saga. Working with two other Hill & Barlow lawyers out of a makeshift office set up by Democrats at the Plumbers and Pipefitters Union Hall, they wrote the first brief making the now-familiar case that the county canvassing boards cannot simply exclude dimpled or pregnant chads but must look at each ballot to determine the voter's intent. The importance of their work is not lost on them. "This is one of the key issues," says Axelrod. "The whole election could come down to whether they count the dimples in Palm Beach." They had only three hours to research and write their complaint and a legal memo in support of it, and they finished the papers just minutes before the courthouse closed. "We tore out of the union hall and we started flying through the streets in our rental car," says Axelrod. "We stopped a block away and started sprinting [to the courthouse], legal papers in hand." Outside of John Grisham novels, a lawyer's life doesn't get much more exciting than this.

In fact, the life of an election lawyer in Florida is almost too good. If there's any downside to trying to use the skills you picked up at Yale and Cravath to win Election 2000 for the good guys, it's that there are so many other lawyers intent on doing the same thing. And, being lawyers, they sometimes get a little confrontational. Below the surface, there is a major split between the brand-name attorneys, like Boies, who argue before the Florida Supreme Court, and the faceless recount attorneys fighting for Gore ballot by ballot in the three counties doing hand recounts. "What this process shows is the rift between the journeymen recount lawyers in the trenches, as opposed to the high-powered theoretician-litigators in Tallahassee," says one of the recount lawyers, who speaks contemptuously of "all those hot shots like David Boies in Tallahassee." And even among the recount attorneys there is backbiting. A Gore recount lawyer calls one of his colleagues "a total media hog." Another attorney complains to a reporter that he was "only a footnote" in an article that gave prominent attention to one of his colleagues.

Such recriminations underscore a fact that every lawyer here keeps in the back of his (almost all the lawyers are men) mind. Out of the ashes of the recount battle will emerge a handful of new legal stars who will go on to prominence as trial attorneys, Democratic legal counsel, or TV pundits. And just about every lawyer currently in Florida wants to turn his 15 minutes of fame into a lifetime of public recognition and private wealth. Because—let's face it—deciding an election is fun, but eventually you have to pay the bills. ■



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THE NEW REPUBLIC

# Stanley Kauffmann on Films

## Added Attractions

WHILE I WAS watching **You Can Count On Me** (Paramount Classics), which is set in Scottsville, U.S.A., I kept wishing it had been made in France with a French cast. I had just seen **La Bûche** (Empire), a French film with which it is roughly comparable and which was more enjoyable. Inverse provincialism is not really the reason: I simply had thought it more engaging to see one more family problem picture if it had a foreign setting. At least the Frenchness added some travelogue sheen.

*La Bûche*, as many will know, means the Yule Log that patisseries provide for Christmas dinners, a frighteningly delicious chocolate-cream-covered gâteau that resembles a small log. The screenplay, written by the film's director, Danièle Thompson, is about a Parisian Jewish family at Christmastime, their familial and other troubles. Thompson is the daughter of the well-known actor-writer-director Gérard Oury (né Tannenbaum), and she gently lets the Jewishness of her film slide into place, rather than blaring it at the start. She is in fact more concerned with their living of French lives, as Jews, than with any problem about it. She basks in this aspect because, in this picture at least, there are no problems in France for Jews. It is the Frenchness, seasoned though it is with Jewishness, that gives the film its texture.

The main characters in *La Bûche* are a sixtyish divorced couple and their grown children, now in their thirties and forties and varyingly soigné, all of them connected in some degree with the world of music. *You Can Count On Me*, written and directed by Kenneth Lonergan, is about very different people, small-town American churchgoing folk. In the center are a young divorcée, her eight-year-old son, and her knockabout younger brother who shows up after—she now learns—a jail sentence in Florida. We soon see that this film, too, is about family problems, but it obviously cannot have the foreign texture of the French film, and without that décor it quickly becomes too bony.

Still, both films have a common trouble. As in so many family-problem pictures, the authors use the problems to fill a hundred minutes or so; then, either the problems are dropped, with a bow of rhetoric, or they are factitiously solved, so that all of us can go home. Such films leave us feeling either bilked or used. The authors may have had serious intent, but they haven't really understood how to fulfill it. What happens in Thompson's picture? The family learns about a half-brother whose existence we suspected long before they do; otherwise, nothing much has changed or deepened. In the Lonergan film, along with a counterpoint of the young woman's amorous adventures, which lead to no resolution, the scapegrace brother ultimately—and conveniently—learns something about values, and, after a speech about the definiteness of his indefinite future, he hits the road once more. Basically, both films exist for the scenes within them, some of which are sharp or moving, rather than for any cumulation toward a point. *La Bûche* is more engaging simply because it happens in Paris, but for a French audience, I suppose, the effect is just reversed. In France, Thompson's picture must thrive, or not, on emotional affinities: with Lonergan's picture, the sheer American quality may sustain it for French audiences even when the drama is familiar or carpentered.

About Thompson's dialogue, accessible to me only through subtitles, I can't comment, except to say that those titles are supple. Lonergan's dialogue is that of a writer determined to avoid clichés, so determined that we can almost feel him sweating in the effort. Curiously, the one line that lingers does so not because of the words but because of the inflection.. The young woman visits her (Protestant) cleric to tell him about an affair she is having with a married man. She asks his view, and in a semi-shrugging way, this up-to-date minister concedes, almost embarrassed by the stodgy sound of it, "It's a sin."

This role is played by Lonergan himself, who wrote the entertaining *Analyze This* and who is a just adequate first-time director. He provides a cleric as resolved to avoid cliché as is Lonergan the writer. Laura Linney, playing the divorcée, is attractive and gifted, but someone ought to advise her that some of the time she needs to do less. Occasionally her acting descends into face-making. (Exception: the elated solo moment in her car, returning from her motel date with a married man. Funny and fine.) Mark Rufalo, as the dark and stormy brother, gives the role more reality than Lonergan's writing does.

Thompson's directing of her film has more verve than Lonergan shows in his, but she has a more glitzy cast—among them, Claude Rich as the divorced father, Françoise Fabian as his ex-wife, Emmanuelle Béart and Sabine Azéma as two of their daughters. It's pleasant just to be in their company. As for the foreign quality, it is capped by Azéma, who plays a cabaret singer. She closes the film by singing to Fabian "My Yiddishe Momma"—in French.

Rudolph Maté, the cinematographer for Carl Dreyer on *The Passion of Joan of Arc* and *Vampyr*, ended his career in Hollywood doing such items as *The Rawhide Years* and *Three Violent People*. I thought of him while watching **The Legend of Bagger Vance** (20th Century Fox). I had to think of something during Robert Redford's grossly stupid picture about golf, and I wondered about the cinematographer, Michael Ballhaus. He began his career with Rainer Werner Fassbinder and shot a large number of that weird genius's films; here Ballhaus is up to his hips in blatant tripe.

It isn't a matter of the mighty having fallen. People who work in film know that Parnassus cannot be their constant habitat. Allowing for some near-saintly exceptions, directors and cinematographers and writers and actors and designers understand that the best they can do is what the film business allows them to do. It could even be cynically argued that, with a blight like *Bagger Vance*, a Ballhaus possibly does even better work than usual—certainly no worse than usual—because he knows that the only artistic reward he will get out of the job is the quality of his own contribution. The cinematography here is lovely, softly suggesting an air of reminiscence. (The whole story is a flashback.) Money aside, though not very far aside, I hope that he feels rewarded by the look of the film.

A similar hope for James Bissell, the production designer of Arnold Schwarzenegger's latest excrescence, **The Sixth Day** (Columbia). The film has to do with the possible cloning of human beings in the near future, a subject that is a continual reminder of the oldest sci-fi flicks, in



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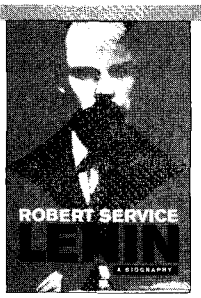


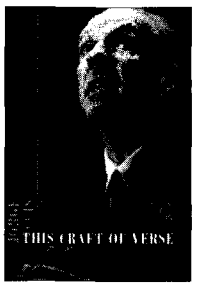


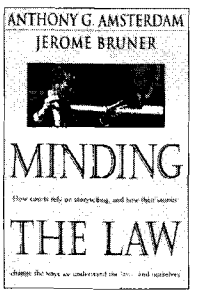

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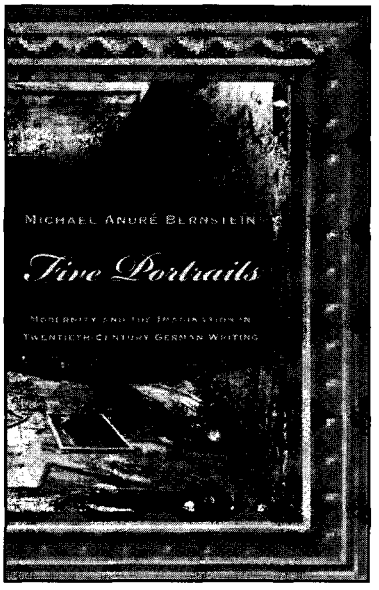


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which bodies lay next to each other in a lab while, accompanied by electric sizzles, various transferences went on. Most of this new film takes place in a science headquarters that would dwarf Penn Station. Bissell has an excellent eye for gargantuan architectural chill. The immense lab itself, the adjacent quarters, the corridors, the technical equipment, invite awe at the same time that they threaten.

In the film world, some kinds of aesthetic justice are left out in the cold. Much of the most impressive production design in film is done for vapid science fiction, just as much of the prettiest costume design is done for historical junk, and those pictures are not frequently seen by discerning viewers. No one has a long enough life to spend a lot of it going intentionally to dreary films for secondary reasons. Also, it's true that occasional books appear about the work in one or another contributory film field. Still, these two recent films remind us yet again that the work of good artists is often swept away, unrecognized and unsaluted, in the flood of film commerce. Those artists cannot resolve to work only on pictures with a shot at immortality, or they will not survive to be on hand if such chances come along. There is no remedy, unfortunately: there is only rue. ■

# Jed Perl on Art
## The Counter-atmosphere

BILL JENSEN IS one of the few artists working today who can spin a mood that feels ineffable. In a recent cycle of some three dozen small paintings done on paper, his overlapping brushstrokes and unpredictable coloristic flourishes suggest the bruised beauty of delicate sunsets arriving after stormy weather. Jensen pulls us into an unfamiliar visual climate, and the experience turns out to have some of the destabilizing fascination that we associate with classic abstract art. This work, done by a widely admired artist who is now in his mid-fifties, did not cause much of a stir when shown at the Danese Gallery last spring, but these intimate-scaled paintings have stayed in my mind, and I have begun to see connections between their tamped-down power and many other works that I am seeing in the galleries.

The concentrated emotional force of Jensen's work has enabled him, at least from time to time, to connect with a broader cultural mood. This is happening now. Looking at his new compositions, generally no more than fifteen inches high, one may miss the dying-embers intensity of the paintings that brought Jensen to prominence in the early 1980s. In those canvases—with their peculiar emblematic forms, half-biological, half-astronomical—he seemed to be plumbing the dark heart of the romantic spirit. And when I see the new work, which has a more coolly ambiguous impact, I feel that just as Jensen once reflected a generation's turbulent responses to the shattered idealism of the 1960s, so he is now crystallizing a familiar yearning for equilibrium, for serenity, for peacefulness.

Jensen is an uneasy spirit reaching for gently unfixed and enveloping emotional states—for a kind of visual balm. When he works strokes of paint of different viscosities over one another and invites us to watch the odd thickenings and thinnings, he appears to have no singular image in mind. I would say that he is trying to create not a place apart—not a freestanding universe—but a sort of counter-atmosphere, right on the surface of the paper, that holds viewers with its contemplative power. The work in this new series, which is titled "Drawing in a Zig Zag Way," is about attentiveness as a contemplative act.

The less tangled mood of Jensen's recent paintings connects, in several more or less zig-zaggy ways, with new work by a number of artists, all of whom are less interested in narrative or metaphor than in creating a mood, an ambience. All these artists want to weave a counter-atmosphere, a visual quality that offers an escape from the workaday world. I see a range of painters, many older than Jensen, who seem to regard their canvases as contemplative objects. They include Brice Marden, Robert Ryman, and Agnes Martin, all of whose elegantly worked surfaces have received a good deal of attention of late. (Martin was the subject of a show at the Whitney this fall.)

Betsy Kaufman, an artist who had her second painting show at Leslie Tonkonow last spring, constructs some delicately



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mystical linear effects, especially in the large composition called *wavers, again*. A number of artists who attracted attention in the '90s—such as Cora Cohen, whose paintings have luxuriantly spattered and splattered surfaces—are aiming for a kind of funkily gaudy abstract impressionism. There is also a resurgence of interest in all-over optical surfaces, especially in the work of Bridget Riley, who this season, after being more or less invisible in New York for a quarter-century, has had exhibitions at both PaceWildenstein and the Dia Center for the Arts.

What many sophisticated gallerygoers want right now is not stories but colors, textures, temperatures. And when Jensen reaches for an atmosphere, he is to some degree involved with the same ambitions as a number of artists who work with light, sound, video, and installation, creating wraparound atmospheric experiences. In Jeremy Blake's DVD projection *Angel Dust*, shown at Feigen Contemporary last spring, screenlike overlaps of geometric forms and night skies have a certain trancelike fascination; Blake's work can be interpreted as a technological version of the kind of all-over experiences that now interest Jensen. The unfixed psychological character of Jensen's new paintings is also not entirely removed from the emotional drift that Pipilotti Rist evoked last spring in an elaborate installation called *Himalaya's Sister's Living Room* at Luhring Augustine.

Rist's installation, an interior done up in '70s bachelor-pad chic, with velvety dark lighting, throw pillows, biomorphic knick-knacks, and video images flickering on random pieces of furniture, had an almost hallucinogenic impact on gallerygoers, who were welcome to sit down and soak up the dimmed-lights atmosphere and soothing audio accompaniment. Rist invites us to literally walk through an atmosphere, but that is not entirely different from what Jensen is doing when he holds us with a mood that is right there on the paper's surface. Jensen's work is a matter of delicate color and elegant improvisation; he is a connoisseur of calligraphic brushstrokes. While Rist, a connoisseur of kitsch, does not exercise the kind of artistic control that might give her open-ended vision some staying power, both artists do give us experiences that have no beginning, no middle, no end.

It is not difficult to grasp the appeal of structural indeterminacy. People are looking to art for something that takes them away from the rationalized work world—but not too far away. They feel that they no longer have the time to immerse themselves in complete artistic fictions. They do not want to get into art so much as they want art to come along with them. Gallerygoers want tactility—qualities for their own sake, another world that they can click into and out of. They like high-tech art experiences, but they seem especially interested when what is created is a fuzzily hyperbolic mood. The appeal of painters who focus on textures, or of installation artists who focus on light and sound, is akin to the appeal of Minimalist music or the homogenized versions of medieval music that are the really sophisticated choices for the CD player in the car. This work doesn't take you into another world so much as it shifts the mood of the world you live in: a counter-atmosphere.

COURTESY DANESE GALLERY

Bill Jensen, "LZZ 31," 1999

Art has now become an aspect of downtime. And so the challenge for an artist is to show that downtime is real time, and that the appeal of a mellowed-out, cossetted, wraparound experience, an experience that tends to avoid particulars, can have its own kind of integrity. The audience that wants nothing from art but free-floating sensations can be accused of philistinism, and this is certainly an audience with its know-nothing contingent; but the illusion of pure, unedited sensation is one that an artist can deepen and particularize. Only when we are willing to ask how rich or complex a mood an artist can spin does this whole contemporary direction begin to get interesting.

All atmospheres are not equal. Many gallerygoers have been reminded, when looking at Bill Jensen's new compositions, of Brice Marden, and indeed the calligraphic turns of Jensen's brush are related to some of Marden's recent work. Marden's paintings have deftly rubbed-down surfaces, but I do not find in his calculated casualness anything like the interesting opposition between tension-as-melancholy and release-as-serenity that gives Jensen's small compositions their shaded power. Pipilotti Rist's installation suffered from a deep conceptual incoherence that I have yet to see such a mix of art-and-theater overcome; but still Rist demonstrates a delicacy in handling overlapping emotional and cultural allusions that sets her apart from the preponderance of installation work that is currently being done. She is certainly a more interesting artist than Damien Hirst, whose vast hipster's Cabinet of Curiosities, at the Gagosian Gallery on West 24th Street until December 16, gives gallerygoers the chance to glide through an exercise in unmodulated hyperbole that contains vitrines full of gynecologist's chairs and tropical fish, skeletons, cadavers, and lots of bouncing ping pong balls.

When artists of wildly divergent sensibilities and capabilities are affecting the audience in ways that are not unrelated, a gallerygoer can begin to feel plenty confused. At that point the best bet is to go



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back to the sources. If there is an overlap between work as utterly distinct in quality and character as Jensen's and Marden's and Rist's and Hirst's, it has much to do with our still-evolving responses to the art of the early twentieth century. It was the early modern artists, with their often deeply equivocal feelings when it came to marking off the fictions of art from the facts of life, who first deemphasized frames and pedestals. They were ambivalent about the idea of a work of art as a fictional universe with its own inherent laws and logic, and we are still dealing with the long-term consequences of their ambivalence.

Modern art did not reject illusionism in favor of literalism in the sweeping terms that have sometimes been described, but literalism did come to be seen as art's foundation. This could be said to be the case with Mondrian, who insisted that emotion in art would be generated from the basics of the primary colors and the absolutes of verticals and horizontals. This is also the case with Kurt Schwitters, who presented ticket stubs and other found objects, with all their immediate associational values, as the subject matter of his collages. The essential revelation of modern art was that literalism could have an emotional impact.

There are writers about contemporary art, Tom Wolfe being the most prominent, who are fond of explaining to us that the public would still gladly ditch Mondrian and Schwitters for a fully detailed fictional universe that mirrors our own. But the truth is that the public that goes to galleries, which is the only public that contemporary art really has, long ago absorbed the arguments for the primacy of literalism over illusionism. Gallerygoers accept the idea that Jensen or Rist spins a mood that becomes a fact in our world, Jensen by making a surface that is a delicious contemplative object, Rist by inviting us into a room that becomes its own alternative campy-cool reality. Jensen and Rist are literalists; and so are Marden and Hirst.

FOR DECADES NOW there has always been at least one artist who holds the art world transfixed with a kind of cruise-control careerism, and right now Damien Hirst is that figure: the literalist du jour. In his show at Gagosian, called "Theories, Models, Methods, Approaches, Assumptions, Results and Findings," he uses full-scale tableaux to evoke the mood of the laboratory, the pharmacy, the hospital, and the morgue. Considering that literalism has an aura of inevitability in art these days, there is no mystery as to why this truly stupefying demonstration of literalist mood-spinning has created such a stir.

Hirst's show is about how many different things can be stuffed not into a phone booth but into a large glass vitrine. This is Madame Tussaud's for the dot-com generation, and no matter that Tussaud's itself is now in Times Square. People wonder at the corpse, covered with a sheet, with a sandwich on top of the sheet. They look into another vitrine, where a full-size seated mannequin, dressed like a technician, looks into a microscope on a table. If you watch closely, you can see the mannequin's hand actually turning a knob on the side of the microscope. Hirst's show is about atmospheres: the atmosphere of the lab, the morgue, the work station, the pharmacy. The 156-page catalog is a sort of medical textbook gone mad, with death certificates and toxicological reports to fill out.

Hirst flirts with geometry. He has lined the Gagosian Gallery with wallpaper modeled on graph paper. He also presents paintings composed of neatly lined-up dots. Some may be of the opinion that the wallpaper and the dot paintings reveal Hirst's Constructivist side. As for the Schwitters connection, I guess you could say that this is Schwitters on steroids. Artists as different as Mondrian and Schwitters once saw, in the rejection of the framed fictional universe of earlier art, not only fresh possibilities for picture making but also the promise of a new kind of art that would literally envelop viewers in an environment, be it Schwitters's crazily multi-angled *Merzbau* or Mondrian's various studios, in which the walls were covered with an array of colored rectangles to suggest a three-dimensional extension of his paintings. Hirst's admirers, whose numbers grow with each passing day, are not wrong to believe that literalism is an idea on the basis of which an artist can build a relationship with the public, but they miss—or perhaps they are just amused by—the essentially unexamined nature of Hirst's assumptions. He simplifies and packages the literalism of Constructivism and Dadaism much as a hundred and twenty-five years ago Bouguereau simplified and packaged Ingres's illusionism. Hirst's literalism is way too literal.

What Hirst does with Gagosian's 22,000 square feet is something for the record books. This may be the biggest, most elaborately staged, most expensive-to-produce one-person exhibition of all time. But so what? If the vultures in the media were not buzzing around Hirst's hi-tech crime scenes, the atmosphere on West 24th Street would have evaporated even as the show opened. Hirst's fans assume that he has history on his side, by which they mean that his hulking imper-



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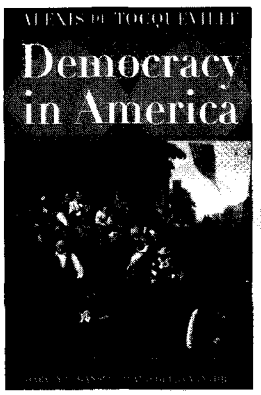


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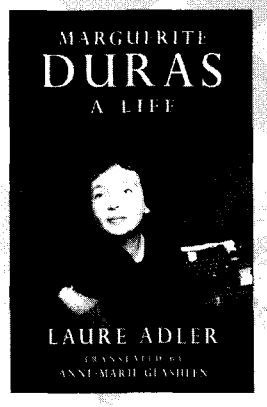


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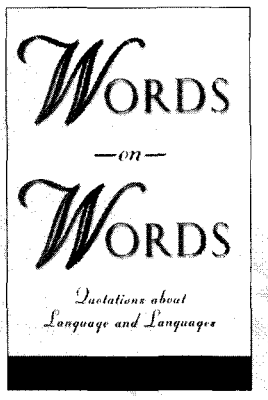


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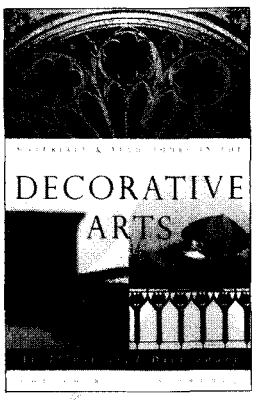


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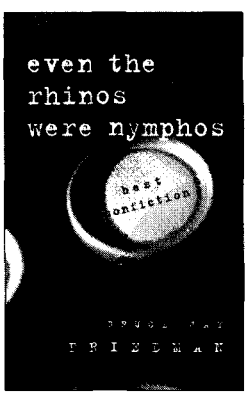


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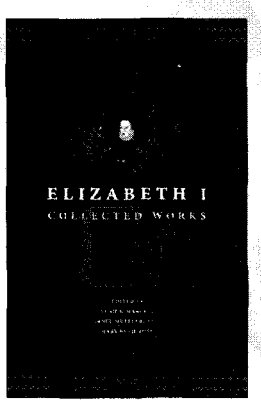


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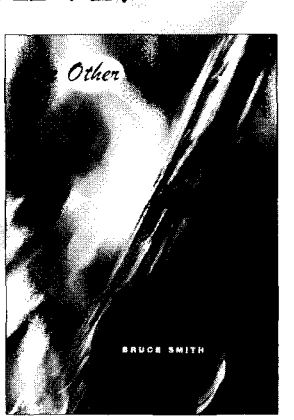


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sonality is an inevitable outcome of the old modern idea that what you see is what you get, but I left Gagosian wondering how on earth anybody at this late date can still imagine that in art might makes right.

In a catalogue essay for the Hirst show, we are told that "Hirst located an unlikely poetics in the boilerplate prose of the scientific paper and pharmaceuticals catalogue, and in the disease- and death-tainted artifacts of the mortuary, the pharmacy and the lab." In a crazy kind of opposites-attract way, this may remind a few of Hirst's most knowledgeable fans of a remark of Mondrian's in 1927, in his essay "Home-Street-City," to the effect that the "smooth and bright" surfaces of Neoplastic painting agree "with hygiene, which demands smooth, easily cleaned surfaces." I will leave others to ponder Hirst's cleverly diseased purism, but even those who are inclined to see in Mondrian's paintings a structural dynamic that is very much in the tradition of Poussin and Chardin cannot deny that the starting point of art is now more likely to be a materialist here-and-now than a fictional once-upon-a-time. We have seen how the excesses of literalism—in Color Field painting, in Minimalism, in Dadaism—can obliterate narrative and metaphor; but this does not mean that literalism is a dead end so much as it suggests that artists have an obligation to free literalism from typecasting. Damien Hirst is the Cecil B. DeMille of literalist typecasting, which perhaps explains why it is that the catalogue of his show includes a list of "Jobs and Roles of a Mortuary Technician."

Surely the other side of literalism, its lyric possibility, is the more interesting side. This is where Bill Jensen comes in. Looking at Jensen's new work, I sometimes feel as if what I am seeing is closer to a kind of natural beauty than to a work of art. Jensen may be less concerned to put down strokes of paint that make compositions than to have us appreciate each stroke for its own sake. His compositions have the visual liveliness of beautiful pieces of agate or granite; we can get caught up in the mysterious layerings of textures and colors as if they were geological phenomena. The value of natural materials, celebrated in all the shelter magazines, can fuse with a sense of quality in art, and who is to say that there is not a connection? We see nothing strange about a person who appreciates both a marble tabletop and the white-on-white surface of a painting by Robert Ryman; and although there is something wrong with an aesthetic that fails to account for the difference between a slab of rock and a painted surface, an artist can probably make something of the narrowing of that distinction. There are many artists, especially the Italians of the *arte povera* movement of the past thirty years, who have cultivated materials, whether sumptuous gold leaf or rough-hewn stone, for their inherent poetic power.

When Donald Judd declared, in 1965, that "most works finally have one quality," he provided a justification for a great deal of extremely dull art. (Some would see a connection to Hirst's vitrines.) But implicit in Judd's argument was an interesting parallel between the power of art and the power of natural materials, which do tend to have one quality, whether it is the pale-yellow softness of birch or the speckled, crystalline richness of granite. When an object has a single dominant quality, it is lifted out of the realm of narrative or metaphor—which require a comparison or a progression from one thing to another—and we are left, again, with moods, with atmospheres. Yet singular moods can sometimes generate narratives. Surely this is why there has recently been such an interest among artists in scholars' rocks, the crazily shaped stones, found in certain caves and revered by centuries of Chinese connoisseurs. These rocks, when set on a poet's desk, appear to be situated between literalism and illusionism. They are not man-made, but men have in fact seen in them mountains and riverbeds and entire landscapes.

NARRATIVE AND METAPHOR are by no means beyond the contemporary artist's grasp. But for artists who want to embrace what they see as the matter-of-factness of contemporary life, the only way to celebrate tradition may be by reaffirming the old literalism of modern art. Nowadays, literalism has its manipulators and its mood spinners, its established figures (such as Brice Marden and Robert Ryman) and its hype artists (such as Damien Hirst and Jeff Koons). With Bill Jensen, literalism and mysticism seem to meet—or perhaps it would be more accurate to say that they consider a meeting.

In his new work, Jensen makes a complicated suggestion: although we may be afraid that we can no longer cope with anything but a dazzling surface, we know too much to deny the depths and disruptions that have left us hungering for this exquisitely shallow space. He has always been an artist who summons a wide range of references, and there is an undercurrent of almost pantheistic optimism in this new work that makes me think of Turner's watercolors—of his astonishing sensitivity to paper as a sensuously absorbent surface, of his layers of delicate translucent color, grayed down but with jolts of intensity coming

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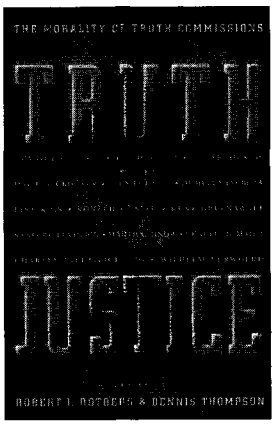


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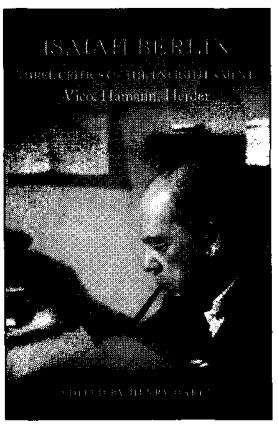


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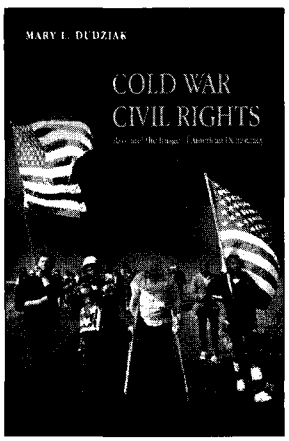


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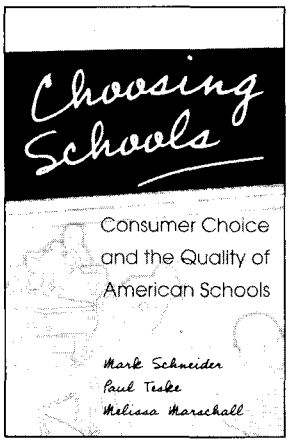


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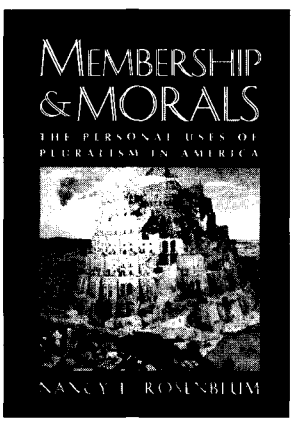


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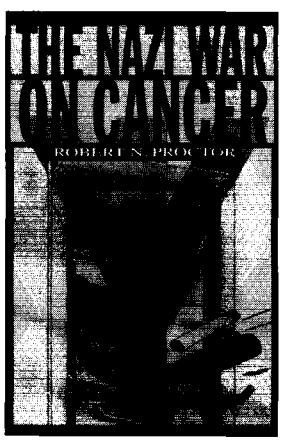


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through. Jensen shares Turner's restless yet elegiac mood.

In the forceful but casual compositions that Jensen calls "Drawing in a Zig Zag Way," this artist shakes up his soft grays and browns with flashes of orange, yellow, and pink that have a fascinating mellowed acidity. The result is a virtual traveler's diary of abstract temperatures and locales; and even though I can rarely say that I am seeing much more than a loose-knit layering of brushstrokes and, maybe, an indication of a horizon line, I feel that each of these regions has its own particular effect. The painterly intensity of Jensen's earlier work has not left him, but it is now an intensity that feels somewhat atomized—even on the verge of dissolving. His circling equivocations create a counter-atmosphere, and a viewer can luxuriate in its attenuations. You might say that Jensen's subject is the illusions of literalism. ■

# Brave Good World

*By* MARTHA C. NUSSBAUM

## From Chance to Choice: Genetics and Justice by Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler

(Cambridge University Press, 398 pp., $29.95)

I.

KATHERINE AND BILL apply for the same management position in a large firm. Katherine's application contains a genetic enhancement certificate from Opti-Gene, stating that the bearer has purchased a package of genetic services that improve memory and boost the immune system. Bill, who could not afford genetic enhancement, protests that hiring on the basis of genetic enhancement is a violation of equal opportunity. He insists that the job should be assigned on the basis of merit. Katherine replies that merit means that the position goes to the best candidate, and she is the best candidate, so what is the problem?

Our growing knowledge of the human genome will pose complex ethical conundrums. Some of them are extensions of familiar perplexities. Looked at in one way, the dispute between Katherine and Bill is not unlike problems of equal opportunity that we have debated for a long time. Had Katherine been healthy and mentally sharp owing to a middle-class upbringing, and had Bill been less so owing to poverty and unkind circumstances, each would have had defenders, in the familiar debate over the meaning of equal opportunity in a context of social inequality. Had it been clear that Katherine inherited her good qualities from her parents' genes and Bill his defects from his parents' genes, most Americans would have said, well, that's who they are. But some determined egalitarians would have insisted that they do not deserve to reap any advantage from traits that they got by the luck of birth. They would have insisted that the job should probably still go to Katherine, but society's general scheme of rewards and opportunities must be adjusted to give Bill extra support. Katherine's talents are social resources that must be fairly used for the benefit of all.

But the moral terrain revealed by this case is not entirely familiar. The dispute between Katherine and Bill also poses some questions that are not covered by existing ethical theories. All existing theories make some sort of distinction between the realm of nature or chance and the realm of justice. Although it may be unclear where that line falls in any particular case, it looks as if our whole sense of life relies on there being such a distinction. Some things that go wrong for people are just tragedies, beyond human control; other bad outcomes might have been averted or controlled by better social arrangements, and so they belong in the general realm of social justice. Nature does not seem to be going away just yet, and a bad end still awaits us all. But the tale of Katherine and Bill does show us that we are living in a time characterized (to use the phrase of the fine philosophers who have produced *From Chance to Choice*) by "the colonization of the natural by the just." Many things that looked like unchanging accident now look like things that people can change, and may even have an obligation to change.

THINKING ABOUT JUSTICE, moreover, will now have to take a subtly new form. We are accustomed to thinking about justice in terms of distributing things to people, where the people remain who they are and are imagined as sharing a common set of human needs and abilities. When we are able to alter people in fundamental ways, however, we shall have to consider that justice may require some remaking of people: for Katherine's good health and quick memory are not just superficial properties, like a new haircut. And once we begin to travel this road, we will surely notice that it is quite unclear what we are promoting, because the idea of a constant human nature begins to slip through our fingers. And notions such as "human flourishing," or the "primary goods" that all human beings supposedly need in order to live, seem on the verge of slipping away with it.

In this eloquent and impressive book, Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler help us to sort our way through these perplexities. (Each takes primary responsibility for particular chapters, and there remain some subtle differences among them, which they debate; but the book as a whole is a joint production.) To put it crudely and briefly, they argue that we should use our new genetic knowledge to treat impairments against a baseline of some core human functions and abilities, but not necessarily (in most cases) to offer enhancements of human abilities above that baseline; that we should zealously protect reproductive freedom, and oppose most (though not all) attempts to persuade parents or to require parents to have a particular sort of child; that genetic counseling and certain types of genetic services should be offered in all health-insurance packages; that society must evolve toward greater respect for and inclusion of the disabled, but this concern should not make us shrink from treating serious genetic impairments to the extent that we can do so. But the authors of this book are not policy professionals, they are philosophers; and where philosophy is concerned, conclusions count for little without the arguments that lead to them. The most admirable contribution of *From Chance to Choice* lies in the density and the cogency of its arguments.

MARTHA C. NUSSBAUM is author, most recently, of *Women and Human Development: The Capabilities Approach* (Cambridge University Press).



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II.

WHY SHOULD WE care about what philosophical argument has to say to us in an era of scientific change? The authors' answer is that without it we are in danger of thinking badly. As we confront the bewildering new possibilities opened up by the Human Genome Project, three obstacles to good thought await us. First, we come immediately upon our fear of change. It is very easy to shrink back in horror from the whole idea of genetic treatment and enhancement, simply because we do not quite know what to say about it. The very prospect threatens notions that have been our moral bedrock for centuries. Instead of thinking coolly and analytically, therefore, we often warn darkly about the dangers of "playing God" or departing from "nature."

And yet, as the authors sternly tell us, that sort of phrase-making is no substitute for serious systematic reflection. We already "play God" in countless ways: we give innoculations, we treat diseases, we find new educational strategies to address learning disabilities. In so many areas of our lives, we are not passive before nature. And "nature" is hardly a moral norm for any sane person. (As Mill observed, "Killing, the most criminal act recognized by human laws, Nature does once to every being that lives.") So what is needed is not panic or piety, but a sober and thoroughgoing evaluation of the new possibilities for improvement opened up by our new genetic knowledge.

The second obstacle to proper deliberation in this era of genetic research is a kind of gene-fetishism that has always had its appeal, and that has become much more common of late. People like to say "it's all in the genes," meaning that the environment really has nothing to do with the outcome, and so we have no obligation to promote good environments. In such a view, the proper response to biology is resignation, and inequalities are all the result of fate. The authors spend a good deal of time tangling with misunderstandings of genetic causation, with the aid of an excellent scientific appendix by the philosopher of science Elliott Sober.

Sober gives a detailed account of the complex interrelationships between genes and environment, arguing that the right question to pose is always what the relative importances of genetic factors and environmental factors are in any outcome, since both factors are always causally involved. "A condition has a significant genetic or environmental component only relative to a range of genes and a range of environments." Moreover, genes often influence an outcome indirectly, by changing the individual's environment: a physical difference may cause others to treat a person differently, for example, thus producing behavioral differences. Sober is particularly critical of the claim that a complex human and psychological phenomenon such as homosexual desire can be plausibly traced to a single gene.

And no less important is the authors' assault on the ideological function of genetic determinism. "If there were an all-powerful and all-knowing being," they write,

> who was resolutely committed to shielding the existing social and political order from critical scrutiny, it is unlikely that it could hit upon a better strategy than implanting genetic determinist thinking in peoples' heads. There is, of course, no such evil demon. There are, however, scientists who sometimes foster genemania by a combination of excessive enthusiasm for their own projects and breathless public relations rhetoric aimed at securing social and financial support. And there are biotechnology firms poised to unleash sophisticated marketing techniques that will no doubt encourage unrealistic hopes for genetic solutions to all sorts of problems.

Indeed, the authors show that the new genetic possibilities should make it harder for people to hide behind the gene as a rationale for quietism. If we can alter genes, after all, then they become a part of the social environment like anything else, and we have to think seriously about environmental change and its relationship to justice, whether we are so inclined or not.

THE THIRD OBSTACLE to good thinking in this new era is by far the greatest. It is the half-heartedness, the sloppiness, and the lack of systematic effort that characterizes most human thinking about most topics in most times and places. The authors' methodology in this book is basically Socratic: they assume that most people have many sound ethical intuitions pertinent to the resolution of such dilemmas, but they believe that without sustained examination, the testing of alternative theories and principles, and the building of complex accounts that integrate particular judgments into a coherent whole,

## The Miscarriage

is absolutely another way to spend one's life.
So as I climbed out of my folded birdish body—
color & consistency of a stewed tomato—I
became my own precocious little brother & everyone

cooed, what a beautiful boy would have been & how
sterile it seemed under the saucerian fixtures, as in noonlight
our shadows gone or buried beneath us. Juiceless Fruit,
bouncing over drought-brown grass, crackling husk,

too parched to rot, momentarily mummified
then blown to dust; particulates of parts of dust—
some blew beside the curb & stayed there this morning.
Now there's nowhere left to live & people pace,

never see up or down but sometimes sideways off
the black window under the sign that says *Cremations*.
Minutes are coins no longer minted. Children fling
them onto the tin rooftops of their condominiums to seduce

their mothers with dreams of safe storms. The street is a strait
of funeral ships, dark impotent sails drag ever aft,
lacerating on the asphalt chops. I watch like an insect
becoming a stick. Like the eyes on the back of a green moth,

I watch half a moon boil in its tremendous kettle.
Something stripped every leaf, even the needles
from the conifers, & it wasn't winter. These bodies are not
our bodies but we pull them close to stall the shudder.

**Ben Doyle**



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we will not face the future well. If that is so in areas where the facts and concepts are familiar, it is all the more so, they believe, in areas where new scientific possibilities require us to refashion some of our most basic principles.

Here, as they see it, is where philosophy comes in. The authors are among the most eminent philosophers in the United States who focus on medical ethics, but they are not simply "medical ethicists." They are also wide-ranging thinkers about social justice and individual happiness. They carefully distinguish their project from an approach that is too often found in the field of medical ethics, in which people simply parade out a small number of familiar principles, unlinked to any overall theory, and mechanically plug them into the cases. Such an approach hardly deserves to be called philosophy, as they scornfully suggest. (If you want to see an example of bad work prominently endorsed—this is my example, not that of the tactful authors—consult the section called "Philosophy" in the National Commission on Bioethics report on Cloning, a disgraceful farrago of half-digested ideas thrown about as a screen for the fear of the new.)

Instead the authors believe, with Socrates, Aristotle, Sidgwick, and Rawls, that good philosophical work must be difficult, complex, and systematic. It must consider both people's judgments and the most prominent theories that organize those judgments. When considering genetic decisions, the serious thinker must integrate this discussion into an overall consideration of just social institutions and equal opportunity. Although inevitably such an inquiry must begin somewhere—and the authors begin with a familiar type of liberal theory of justice, close to that of Rawls—they show throughout the book a readiness to consider a range of alternative accounts and to test theories by the judgments they yield as well as testing judgments by their relation to the theories.

This holistic manner of argument, they insist, is even more important in this area than in other areas of political philosophy, because in this area it is especially likely that no current theory has fully adequate concepts. Thinking about how existing accounts of equal opportunity apply to the dilemma of Katherine and Bill is important; but equally important is understanding why our existing accounts are not adequate, and how they need to be improved. Thus this book, though clearly written and vividly illustrated with striking examples, is still very difficult, as serious thought about its subject ought to be. It should not be read by anyone hoping for quick solutions, because the work of analysis is far more significant, in these matters, than the "bottom line." But it should be read by anyone who wants to think well as a citizen about choices that we must increasingly make about our future and the future of our descendants. If we need a further argument to get us going, we should consider that if citizens do not establish what they want and articulate good reasons for their goals, the insurance companies will make most of these decisions for us.

THE AUTHORS DISCUSS genetic counseling and decisions about conception in one chapter; but this topic, because of its familiarity, occupies them less than do a number of topics on which little has as yet been written, most dealing with possibilities of genetic surgery or alteration. Thus: What genetic treatments should be offered, and should these be required parts of basic health care? Can we meaningfully distinguish between treatments and genetic enhancements, and, if so, should enhancements be subsidized as well, or left to individual choice? Should groups with a particular vision of the good human life be permitted to pursue genetic projects that aim at perpetuating the characteristics valued by the group, and cutting it off increasingly from the society that surrounds it? Should screening for widespread genetic defects be required as a public health measure? Should parents be held negli-


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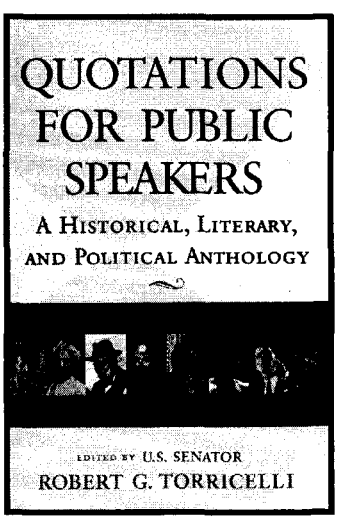
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gent if they fail to take advantage of possibilities for improving the lot of their children? How can we defend meaningful reproductive liberty in an era when we know so much about the child who will be born? And what are the implications of new genetic possibilities for the social standing of the disabled? Do they have a legitimate claim that ameliorative genetic programs be avoided, on the grounds that such shifts in the population will increasingly isolate and stigmatize them?

OUR FEAR OF genetic intervention is not motivated simply by irrational anxiety. It also has historical roots: for we recall the excesses and the indignities of the eugenics movement of the early twentieth century, with its forced sterilizations of the "unfit," the objectification and the vilification of disabled people, the disdainful class-based and race-based attitudes that masqueraded as science. The natural culmination of this movement, as most people see it, was the horror of Nazi eugenics. So the first step in the authors' argument is to perform what they call an "ethical autopsy" on the eugenics movement, asking what its moral failings were, and whether they must be endemic to any movement that pursues genetic treatment and enhancement.

After a complicated and revealing analysis that reminds us, among other things, that modern eugenics was popular in progressive social-democratic circles as well as on the reactionary right, the authors conclude that we can to some extent separate the idea of genetic improvement of people from the hideously flawed ideals of the old eugenics. First of all, those eugenicists had no respect for people's reproductive freedom; but any modern movement must start from a position of respect. At the same time, the old eugenics had no way of intervening in the reproductive process except by controlling who had children with whom. Modern eugenics will have a lot more space for improvement mediated by individual choice: for genetic surgeries and gene replacement therapies can be offered to parents in the way that other medical treatments are now offered, and governed by similar norms of informed consent. Such treatments will still raise questions in the area of liberty—for example, we will have to ask whether parents should be required to perform genetic surgery on a child *in utero*; but these issues will be similar to others that we have long faced in our debates about what medical treatments parents may be required to get for their children, on pain of being charged with abuse and neglect.

The question of prejudice against certain types of people is much more difficult, and the authors insist that any just


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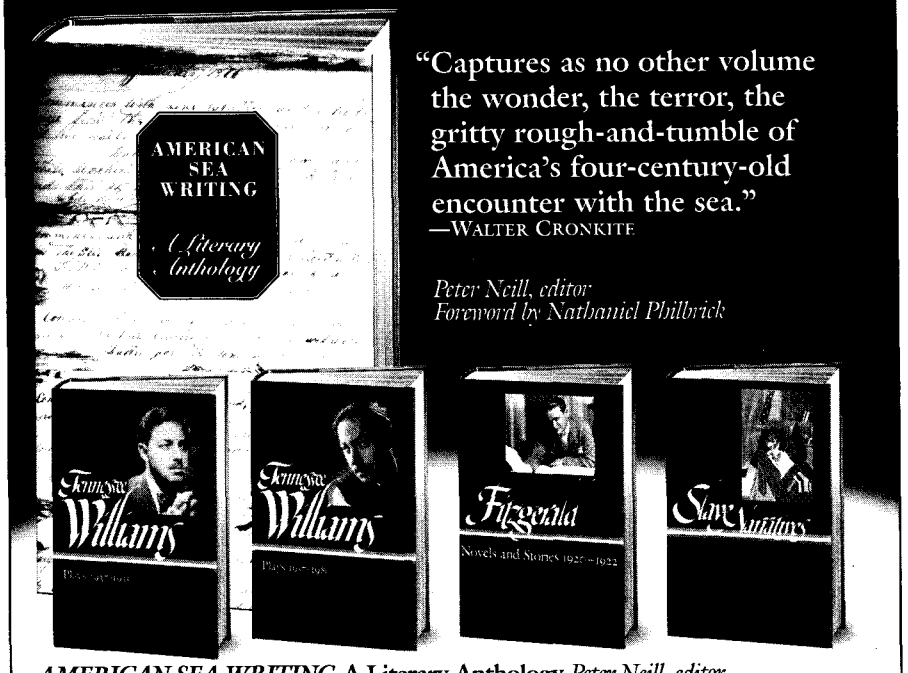


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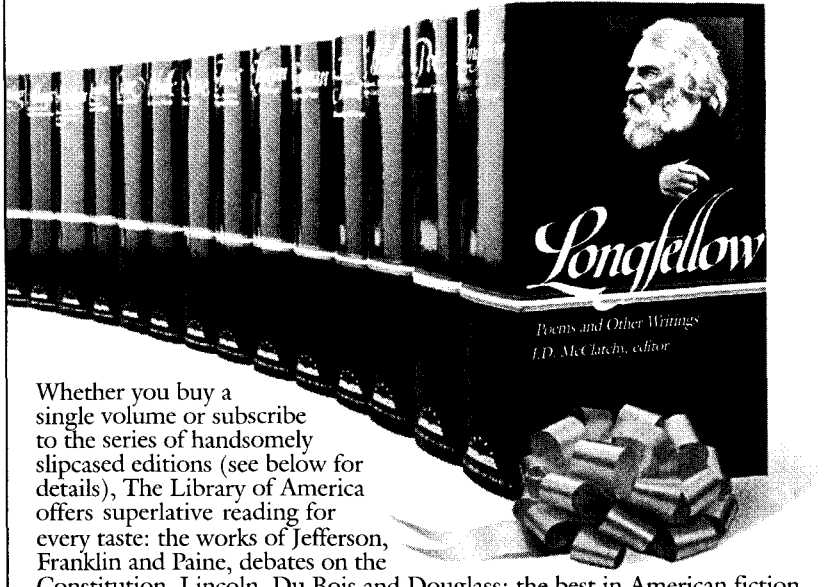


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society must be highly respectful of different views of what a good person is, and what a worthwhile life is. They are also very alert to the subtle interplay between person and environment: an impairment, they insist, becomes a disability only against the background of a particular social environment, and it is generally possible to design an environment in which any given impairment will be at least much less disabling. (Wheelchair ramps, wheelchair access on buses, and other such measures make impairments to mobility far less disabling for those in wheelchairs.) Thus the choice of a social environment always embodies choices in favor of some people and against others.

Still, these facts do not mean that all genetic treatment and enhancement are inherently in league with baneful forms of prejudice and contempt. Even in a pluralistic liberal society, we still need to agree on a list of basic "primary goods" that are generally agreed to be valuable prerequisites for carrying out most plans of life. In the area under question, the authors are optimistic that we can come up with a list of basic human capabilities to which all citizens are entitled as prerequisite of meaningful choice and functioning. Not to care about such basic capabilities is itself illiberal, for it undermines people's real chance to choose the life they want. (I wish the authors had spent more time pondering the "capabilities approach" to questions of basic social justice, which insists that well-being should be measured not by looking at Rawlsian resources, but rather by asking what people are actually able to do and to be. The logic of their concerns leads them to use the language of capabilities, and yet they do not ponder the implications of this other theoretical approach.)


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## III.

USING THEIR ACCOUNT of central human capabilities as a "baseline," the authors approach the difficult question of how to protect equality of opportunity in a time when the rich may be able to purchase not just commodities, but also better selves. Equality of opportunity is a puzzling concept at the best of times, but it becomes more puzzling when we have the power to alter the person. The authors of *From Chance to Choice* consider two familiar conceptions of equality of opportunity.

One conception, associated with the Kantian ethical tradition, draws a line between person and world. It insists that equality of opportunity has been served when all the social and political aspects of the environment have been adjusted to be fair to the dignity of all persons. This conception might still require some redistribution of wealth and income from more talented to less talented people, as Rawls's view surely does; but the talents are permitted to remain part of the person, so to speak, and there is no push to redistribute those valuable abilities themselves, since all persons are taken to be fundamentally equal in dignity anyway, in virtue of their basic moral capacities.

But there is another, more radical conception of equality of opportunity. It asserts that talents themselves are simply resources: people have no right to them, any more than they do to the advantages of wealth or class. In our current world, all we can do about this is redistribute wealth and income, since we cannot really equalize talents. But suppose we become able to equalize talents: would equality of opportunity itself require massive genetic engineering to produce a nation of equally abled people?

The authors reflect in a fascinating way on this issue, and on its implications for the theories of equality themselves. They conclude that we are lucky. We do not really have to choose between these two theories, because another ethical concern intervenes at this point to make the two theories generate very similar conclusions. For we must confront the radical theory with the fact of value pluralism: people hold different views of the ultimate



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goals of human existence, and thus different accounts of what an ideally "able" person would be. And if we respect the different religious and other conceptions of the good that our fellow citizens hold, we cannot engineer people in ways that run roughshod over those differences. Thus we are back to the menu of basic human capabilities that figure in all plans of life: it is only those capabilities that the radical theory is justified in pursuing, and only up to a basic threshold level. But then it is quite similar to the Kantian theory after all, since the Kantian theory, too, focuses on a list of basic abilities as "primary goods" that enable all citizens to pursue their different plans of life.

WHAT DOES THIS mean for what governments should give people? The authors consider, next, the problematic distinction between the treatment of genetic impairments and the enhancement of normal genetic equipment. They are not very happy with this distinction, because it is easy to think of cases that call it into question. Person A is short because of a genetically caused brain tumor that impedes pituitary functioning. Person B is short because his parents were short. It looks as if A has an impairment, and that the correction of it would be a treatment; but B has no impairment, and the treatment of his shortness would be an "enhancement." And yet both conditions are genetically caused, and both may be the source of misery and discrimination.

Problematic though the distinction is in some cases, the authors believe that we are justified in relying on it to map out an account of what a fair health care scheme would give all citizens: treatment for all genetic impairments that bring them significantly below the level of normal species functioning, as specified in the account of central capabilities. They believe that health insurance should offer such treatments, whether for genetic surgery *in utero* or for treatments after birth. It is far more problematic, they argue, to offer enhancements, and they believe that some enhancements, such as the purchase of extra intelligence or musical talent for one's own children, should actually be illegal, inasmuch as they will be ways through which the privileged create children who are better than other people's children, thus violating the spirit of equal opportunity.

The authors' approach to equal opportunity, like virtually all previous philosophical approaches, relies on a notion of common humanity. Yet they are acutely aware that the new genetics may eventually call that basis into question. What would the world be like, they ask, if ethnic


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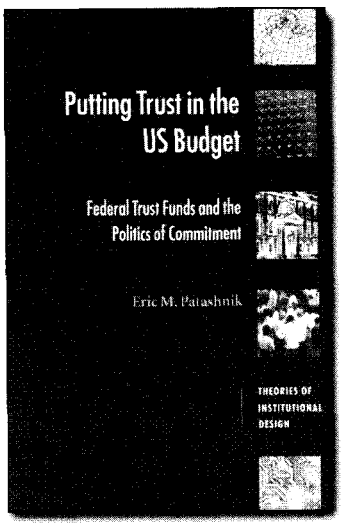
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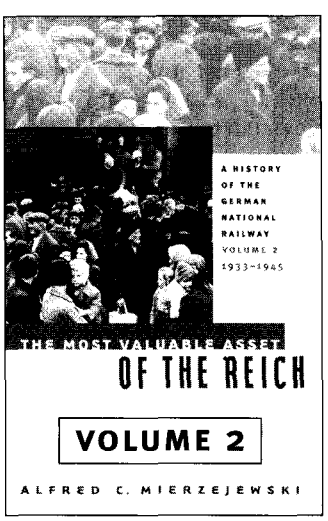
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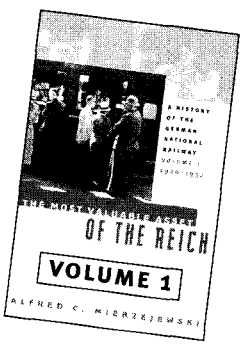


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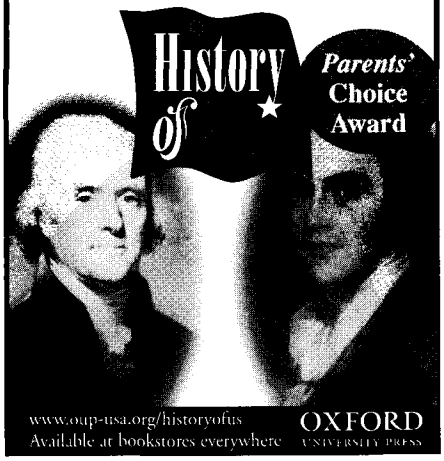


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or religious groups proved able to engineer their descendants and to develop traits prized by the group, until eventually separate kinds of humans were produced, and we ceased to have a notion of common abilities and needs as an ethical resource? They think, with good reason, that such an eventuality would threaten the very basis of morality. In this respect, we have good reason to fear the future, though it is not altogether clear what we should do to ward it off.

## IV.

REPRODUCTIVE FREEDOM IS, throughout *From Chance to Choice*, at the heart of the authors' concern to distance their enterprise from the old and ugly eugenics. They spend a good deal of time working out what a suitably expansive conception of reproductive freedom would cover: the choice of whether to procreate, with whom, and by what means; the choice of when to procreate; the choice of how many children to have; the choice whether to have biologically related children, and of what sort. People should be offered extensive genetic counseling, they believe, as a part of any reasonable health care package; but in the end, in most cases, parents must be left free to decide what sorts of children they will bring into the world.

To be sure, parental neglect may be involved whenever parents fail to treat a serious genetic ailment, as it now is when parents fail to get medical treatment for an ailing child. But it is only in the very small number of cases in which we might argue that an individual's life is worse than no life at all that we should even consider prohibiting parents from having the child that they choose to have. In such cases—say, a child with Tay-Sachs or other extremely limiting and painful conditions has been born through either medical or parental neglect—the authors are sympathetic to the idea that a lawsuit for "wrongful life" might be brought against the negligent person. This does not mean that they defend mandatory abortion; on the contrary, they are deeply opposed to that idea, on the grounds that the freedom to have the biological child of one's choice is extremely important. But they point out that good genetic counseling about Tay-Sachs is already offered by at least one prominent Orthodox Jewish organization: parents and counselors can deliberate well before conceiving a child.

It is difficult to articulate the considerations underlying a "wrongful life" action using only our current notions of harm. Here is another area in which the authors discover a challenge to philosophy in the new genetic science. Usually we think that for something to harm person P we have to be able to compare P's unharmed state with P's harmed state: P has to be there both before and after the harm. But when a child is conceived with Tay-Sachs and is born, there is no other way that particular child could have lived. Had the parents used artificial insemination, or adopted, or had they simply had no children at all, the Tay-Sachs child would not have existed. So who is the person P who is worse off than he might have been? They suggest that we need a comparative notion of harm that could, for example, compare the state of the existing impaired child to the state of some other child who might have been conceived (or adopted) with wiser counseling.

INEVITABLY, DISCUSSIONS OF parental choice with respect to genetically impaired children are very threatening to the impaired themselves. Even if these choices do not involve aborting already existing impaired children—even if, as in the authors' primary scenario, they mainly involve fixing disabilities in the womb, or after birth—there is still something alarming, at least for the near future, about the idea that Down's syndrome, deafness, and blindness may gradually cease to exist. People with those conditions not only fear increasing stigmatization and lack of social support; they also maintain vigorously (especially in the case of the deaf) that they have a valuable culture that will be obliterated if a single norm of basic human capabilities is applied across the board.

The authors give a sensitive exposition of these arguments, but finally they reject them. They can find no reason to extenuate impairments that seriously affect the central human abilities in their baseline account. Discrimination and stigmatization must be combated, of course; and yet they doubt that this should be done by dooming future children to a life of deafness or blindness when we will have learned to cure those infirmities. We do not refuse to inoculate our children or to provide them with needed medical treatment on the grounds that our actions might stigmatize the ill or the disease-ridden.

Neither should we hesitate if we can make a child see or hear who otherwise might not. There are many conditions about which we can argue, because they involve controversial values; but there is a core of basic human abilities, and not to have any one of them is to be at a disadvantage in any world remotely like our own. Society can make many changes that open up opportunities to the impaired, but it is not possible to make deafness and blindness no disability at all. Moreover,



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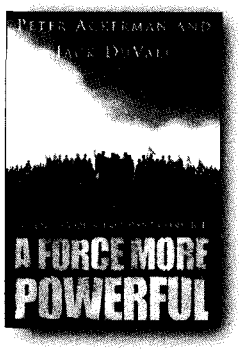


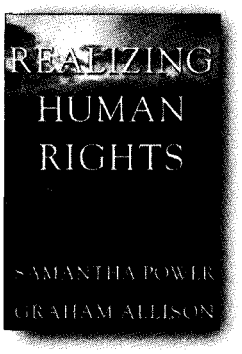


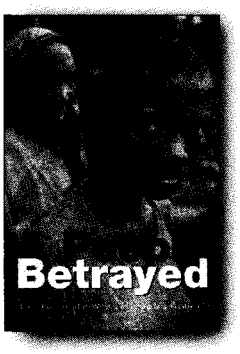


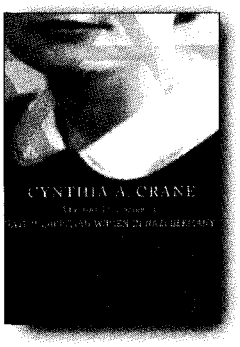

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such changes as we might make would be terribly expensive, so we must ask why we should all be asked to foot the bill merely because some parents value the special culture that a particular disability would promote.

THIS IS THE most delicate and difficult set of issues raised by the book, and it is here, I think, that the authors' admirably hardheaded account leaves the reader with the greatest perplexity. For human life always has been a struggle against the limits of nature, and any real human being is the result of such a struggle. Moreover, we know that many of the most creative and valuable human lives are the result of particularly difficult struggles that forced people out of the mainstream and made them the targets of contempt and abuse. Anyone who has ever been bad in sports, or the wrong body type for some sexual stereotype, knows that genuine suffering is involved in these "impairments"—and so a caring parent might well demand genetic alterations to prevent them, thus producing a nation of large-busted women and muscle-bound men. But shouldn't culture be changed rather than nature? And where, in the culturally unreconstructed and genetically engineered world of gender stereotypes, will the artists and the intellectuals come from? If all children can be made into whatever the dominant norms of their society want them to be, won't human life be the poorer for it?

My daughter was born with a perceptual and motor impairment (not clearly genetic, but let us suppose that it was) that clearly puts her below the authors' base line for "normal species functioning." It is an impairment severe enough that any decent mother would have opted, *ex ante*, for a genetic "fix." (She learned to read when she was two, and to tie her shoelaces when she was eight.) Although she is both gifted and beautiful, she has had to contend with abuse and teasing all her life. Her idiosyncratic, lively, humorous, and utterly independent personality is inseparable from those struggles. Not only do I not wish that I had had some other different child, I do not even wish that she herself had been "fixed." Maternal love aside (if ever it is), I simply like this unusual contrarian person so much more than I would have liked (or so I believe) the cheerleading captain whom I might have produced. And I certainly do not desire a world in which parents will all "fix" all their children so that nobody is an outlier, even though we all know that the lives of outliers are not easy.

But hang on, say the hardheaded authors of *From Chance to Choice*. You know, too, that many forms of injustice produce depth and insight in the personality. Forster was right, in *Maurice*, when he depicted his protagonist as a man who would have been a boring middle-class stockbroker but for his homosexuality and the prejudice against it. Adversity and difference led Maurice to introspection, understanding, and genuine individuality. And surely you do not want to keep homophobia around just so that boring stockbrokers may be improved by suffering.

No, I do not. And I think it is a very good thing that our society has decided (if it has so decided) that homosexuality is not a disease to be treated, but a condition against which irrational prejudice has been directed—that it has decided to fight prejudice rather than to eradicate homosexuality. In another time and another place, obviously, it might have been otherwise. (Indeed, some eugenicists had such a hope, and many gays and lesbians still fear that genetic knowledge might someday be used to eradicate them.) The problem is that I do not trust society to deal this way with prejudice against the short, the uncoordinated, the small-breasted, and the athletically impaired. It is likely that good parents will feel obliged not to work against the social prejudices that make the lives of such children difficult, but instead to "fix" those conditions before birth if they can.

Our world, already diminished by the tyranny of conformity, would be the poorer for such a change. What would Mill have said could he have contemplated a world in which middle-class conformism could affect not only the happiness of unusual people, but their very existence in future generations? What challenges to dominant social norms, what "experiments in living," would we have in such a world? "They wish I had never been born," said my daughter, when I told her the authors of this book favored genetic treatment of defects that depart from "normal human functioning." Well, yes: in a very real sense they do. But who, given the choice to spare one's future child suffering, could confidently disagree with them? It is just that the very fact of having such a choice seems threatening and in some ways tragic.

I have no good counterproposal to the authors' sensible recommendations. I believe that they are right to use as the baseline for genetic medicine a small core of common human abilities, and to protect pluralism in ways of life above that baseline. But we should remember that parents are likely to be poor judges of what lies within the core of the humanly normal; and also that they may also be far too zealous for the normal, at the cost of many good things in human life.

We are only just beginning to create a society in which children with Down's


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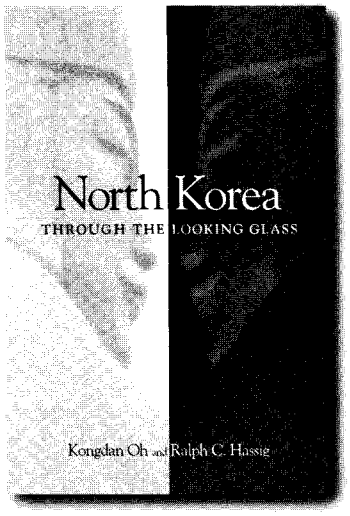


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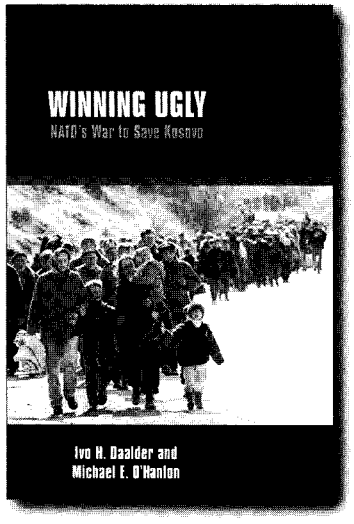


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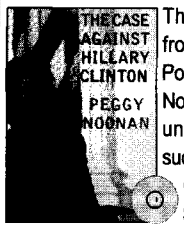

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syndrome are respected as individuals, in which the deaf are seen to have a culture. We must support these developments, against the predictable tide of demand for normalizing genetic treatment. While not forbidding genetic surgeries of the sort that the authors recommend, we should also foster a public culture in which a wide range of putative disabilities are respected, understood, and seen with imagination, as valuable forms of human life—so that parents eager to have the "normal" will think again. The authors of this important book are right not to romanticize difference when it comes with huge suffering and gross impairment. But those people who were formed, and strengthened, and provoked to achievement, by their own difference—who became thinkers, say, because they could not be cheerleaders—should ponder their complicated but happy fate, and try to preserve a world where it may still befall others. ■

# The Storyteller

*By* R.F. Foster

## A History of Britain, Volume I: At the Edge of the World, 3500 B.C.–1603 A.D. by Simon Schama

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The problem with British history is that there is so much of it: "a great heap of Himalayas," as J.H. Plumb once put it, looming behind each other to infinity. And the peaks have so often been scaled, their approaches investigated, their contours mapped: how can the story be told anew? Norman Davies recently tried one kind of reconnoiter in *The Isles*, disaggregating the usual combinations, "restoring" his versions of original names, trying to change the perspective from the core to the periphery by aggressively advancing Wales, Scotland and Ireland into the foreground. Simon Schama has taken on a similar task, enveloping the huge sweep of British history in a pincer movement: televisually from one side ("The History of Britain", made for the BBC, started on the History Channel this November) and in a two-volume blockbuster from the other. It is a new kind of enterprise for him, but novel challenges come easily to a man who has proven himself equally ready to experiment with historical fiction, and to take on the notoriously carping world of art history in a large-scale study of Rembrandt.

More relevantly, Schama has written about the Dutch Republic, the French Revolution, the idea of landscape: all of them subjects which in one way or another involved the idea of *patria*, the invention of tradition, the creation of a national culture. But his latest enterprise necessitates the kind of generalization that threatens the highly personalized and nuanced method of total immersion that has up to now characterized his work. Schama is too interesting a historian for the effort not to be interesting in itself; but the question remains how far he can transcend the genre of Victorian narrative—indeed, whether he wants to transcend it at all.

In his first volume and in the simultaneous TV series, Schama begins with the idea of competing elements within the astonishingly varied little archipelago that became Great Britain, and ends with the fusion of some or all of them into an idea of "Britannia" at the end of the reign of Elizabeth I. Televisually, images of waves and sea predominate. He stresses the Frenchness of the English monarchy under the Plantagenets, and one of the strengths of the television series is the way the images range back and forth across the Channel, identifying certain monarchs with sites such as Chinon and Poitiers rather than Canterbury and Winchester. It may be sweeping to say—as Schama does on screen, if not in print—that Rouen was as important a center of Henry II's empire as London, but it administers a bracing shock. Inexorably, however, both Schama's book and his TV series become the story of monarchs rather than the exploration of geographical and demographical themes. This

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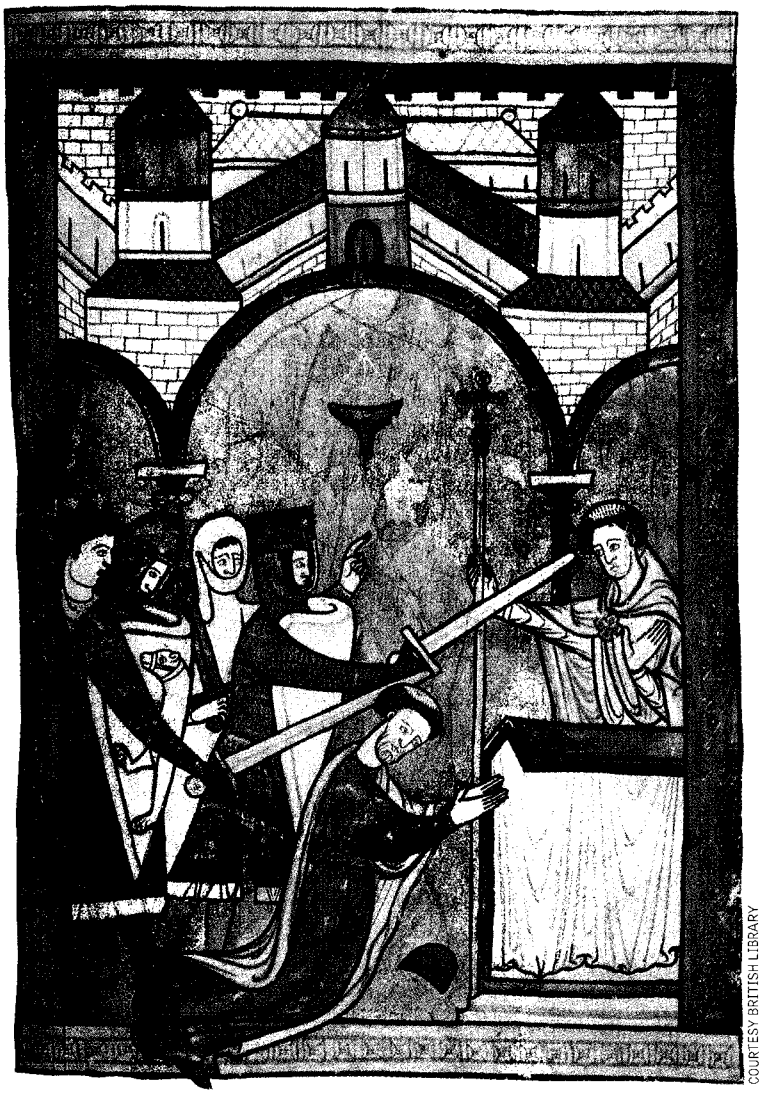
makes for an easier storyline, and firmly centers the action back in London; it also brings the series nearer the "Story of England" format, which he began by nobly trying to subvert.

At the same time, Schama is determined to continue twisting the tale where he can. The self-consciousness of Wales, Scotland, and Ireland is stressed (and their territories visited in person by the wandering scholar and his camera crew). The Vikings are re-revised, transformed back into marauding pagans from the docile urbanites and tradesmen envisaged by more indulgent historians a generation ago. The Magna Carta, rather than a proto-Declaration of the Rights of Englishmen, is treated vivaciously as a manifesto of tax relief for the propertied. And the Peasants' Revolt did not represent peasants. Anti-Jewish feeling (and legislation) in medieval England is interestingly emphasized, with implicit parallels to later mechanisms of discrimination.

Elsewhere, too, Anglicanism is not allowed to hold the field uncontested. Schama follows the recent historiographical emphasis on the durability of the Catholic ethos long after the Reformation; he even adopts the newly fashionable view (at least in Romantic literary circles) that Shakespeare was a closet Catholic. Indeed, one of the passages in the book that shows Schama at his eloquent best describes the state of English Catholicism in the Elizabethan age:

> To be cut off from the priesthood was, of course, a lingering death sentence for a Church whose liturgy depended on priests. To be deprived of public ceremonies was to destroy the entire sense of shared community on which the old Church had thrived. What was left? An underground existence, a portable Church existing in things that could be easily smuggled and concealed: tracts, miniature images, jewels and rosaries. Faith and nation parted company in these years. English Catholic priests trained in foreign seminaries would be smuggled into the country and end up dead: or in hiding with Catholic families rich and powerful enough to protect them. So this is what happened to Catholic England: it ended up down a priest-hole, the ceremonious grandeur of a Long Melford reduced to a faith on the run.

The television script reduces this passage, with Schama peering uncertainly beneath a trapdoor into a priest's hiding-place; but then the medium helps the message by superimposing on a film of the austere present-day Long Melford Church the profuse and polychrome Catholic interior that once adorned it. Color suddenly infuses the stained glass, decoration miraculously runs up the pillars: it is a powerfully effective moment.



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Becket's martyrdom, from a Latin psalter, c. 1200

By and large, however, it cannot be said that the forgotten, the mute, and the inglorious elements in British history get much of a look from Schama, the occasional bravura passages notwithstanding. The Black Death, fourteenth-century England's ordeal by plague, offers one opportunity to deviate from the triumphal-pageant approach and provides the most imaginative episode in the series. Material is excavated out of spheres far removed from war and the conduct of public affairs. The images of charnel houses and ossuaries deliberately suggest Auschwitz or the reign of Pol Pot, while the manorial rolls vividly indicate the seismic economic shifts that accompanied the crisis. (Ironically, it helped to liberate the serfs who survived.)

More usually, though, the style of television history, and the imagery upon which it relies, imposes a tight control, a serious constriction; and the result is a history of Britain with a strangely conventional emphasis. Schama is brilliant—when given the opportunity—at decoding the significance of things such as the "Alfred Jewel," an exquisite brooch belonging to the legendary ninth-century king, which is inscribed "Alfred caused me to be made." "The same," Schama adds caustically, "could be said of his reinvention of an English monarchy." In general, though, material culture gets short shrift here. Archaeology is underused. The emergence of "English" literature is oddly ignored: that Catholic tag is one of the very few references to Shakespeare, who otherwise appears as a Lancastrian propagandist. Chaucer looks in once, and Spenser appears only in his views on Irish colonization.

More importantly, Schama is very good, visually and verbally, on grand architecture, a subject to which he brings both authority and passion. The massiveness of Kenilworth suggests the baronial power of Simon de Montfort, and the Abbey of Pontigny is an emblem of Thomas Becket's hard-edged implacability. He ends the book—though not the television series—with a brilliant coup: an evocation and deconstruction of Lyveden New Bield, an unfinished fifteenth-century Catholic mansion in Northamptonshire. Schama sees it as the "product of a doomed optimism," an attempt to effect an aesthetic reconciliation between European influences and Anglo-Catholicism made impossible by the ruthlessly pragmatic Elizabethan dispensation.

Yet it is significant that Schama generally makes architectural points in order to



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illuminate personalities. Glamorous people dominate the series, especially from the Angevin age. Henry II, Eleanor of Aquitaine, and their sons Richard Lionheart and the bad King John, appear in Schama's account rather as they appeared in *The Lion in Winter*: this is history as soap opera. "The most astonishing of all the family firms to run the enterprise of Britain....What their intelligence built their passions destroyed": that is the television version, but the book is hardly less histrionic. By the time Henry, "the first database king," is also described as "the most hyperactive king in British history," there is a sneaking temptation to reach for the Ritalin.

To be sure, royal dynasties leave ample evidence about themselves, while other medieval families do not—with rare exceptions like the Pastons of Norfolk, whose letters Schama uses with gusto to illuminate the years of plague and crisis. And the sort of popular history demanded by television requires the historian presenter to buttonhole prominent dead people in the manner of a reporter. Schama does this masterfully. His manner is far less fervent than in his series on landscape, and more effective: his one-liners are sharp and often funny, his serious reflections delivered without pretension.

The updating spin put on some of the great set pieces sometimes works, and sometimes it does not. It is a nice conceit to portray Archbishop Thomas Becket as a twelfth-century Cockney wide-boy, to whom "kit mattered" even in death, but it sits oddly with Schama's portrait of the man's flinty and uncompromising intellectual character. Moreover, the story of Becket's struggle with Henry over the supremacy of church law above state law marks an interesting instance in which the television screen imposes a different emphasis from the written page. (The language of abuse is also modulated for the different audiences: when Becket yells at the knights who have come to murder him, the television script tells us that he shouted, "Whoremonger!", but in the book it becomes "pimp.")

With Becket dead, Schama reflects on the significance of the stand that he had made; and he concludes with a nuanced judgment about the archaism of Becket's religious-supremacist principles balanced against his prophetic role as administrator-prelate, a prototype of the kind of man who would form an indispensable arm of royal government in the next age. This is exceedingly interesting; but on television it is condensed to the statement that "Becket's vision of the role of the Church lasted, the Angevin empire did not." As they would have put it in *1066 and All That*, "Right but Irrelevant."

The things that television can do, it does very well here. Wonderful landscapes and castles show how fortresses became "splendid badges of our subjection" for the Welsh. A dramatically foreshortened shot of Waltham Abbey across a field of buttercups suggests the bones of Harold, the last Saxon King, sleeping beneath a Norman edifice. Recurring shots of hawks perning in a gyre, or gobbling rodents, illustrate the Angevin family, while a leopard padding through a greensward symbolizes Richard II. But the opulent images also iron out complexities in a way foreign to Schama's usual style.

Granted, the book version permits him asides and reminders that life is not all kings and queens. (The young Elizabeth, hearing of her accession beneath a mighty oak, allows Schama to interpose a succinct reflection on the symbolism of oaks and Englishness which is a barely concealed reference to *Landscape and Memory*.) By then, however, the cult of personality is running at rip-tide: even Schama's thoughtful introduction to the Reformation rapidly gives way to Henry VIII as a testosterone-driven glamour boy turned psychotic, while his servant Cardinal Wolsey is "Jeeves with attitude."

Moreover, Schama insists, "serious his-


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torians" are wrong to avert their eyes from the importance of Anne Boleyn, just because her life resembles soap opera, and to look misguidedly instead for structural reasons behind England's abandonment of Catholicism. Here the personal is the political. This is combative stuff, and Schama's style is as assertive, zappy, and peremptory as ever, with an added spice of devil-may-care colloquialism: the book's evocation of Edward II's "creepy boyfriends" does not survive, alas, into the television script, but plenty of vivid characterizations do.

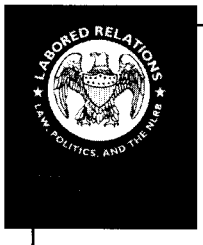
IN THIS BRAVE and ambitious essay in multimedia popular history, there is curiously little of Schama himself—except in the introduction to the book, an absorbing and sharply perceptive view of received notions of "British history" as they were mediated to his generation through the coronation of Elizabeth II in 1953 and the funeral of Winston Churchill in 1965. The last great English hero had straddled history from the age of Victoria to the age of the Beatles. "The whiskers and the military epaulets and frogging he had last seen in the imperial army of Queen Victoria had returned as the whimsical costume of rock bands." The war leader's own epic life, as historical actor, symbol, and commentator, leads Schama to reflect on the kind of history that Churchill wrote, and on that of the once fashionable Arthur Bryant, whose tinny and posturing feel-good history books with titles such as *England Against Napoleon* sold in tens of thousands to the book clubs. (Schama does not say so, but Bryant was a paid-up supporter of Oswald Mosley's fascist party in the early 1930s, not just a harmless celebrator of "our island race.")

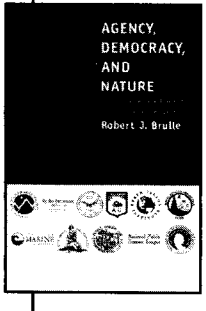
By the time of Churchill's death, Schama reflects, his own (and my own) generation laughed at this stuff. We were being exposed to new ways of reading national history, prospected by Fernand Braudel and Marc Bloch in France, and by Asa Briggs, E.P. Thompson, or Christopher Hill in Britain: structural history, "alternative" history, history from the bottom up, thematic history. Yet Schama is honest enough to wonder—he remembers that he wondered at the time—if "buried within the fabulous mythology" of the traditional Whiggish-Imperial cavalcade of "British History" there might be "a gritty little nugget of truth."

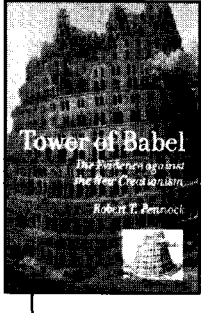
As Schama himself points out, Churchill's own triumphalist *History of the English Speaking Peoples*, recently recycled for BBC radio as "This Sceptred Isle," has found a new generation of popularity. Narrativity is back, and reassuringly upbeat narrativity at that. At the end of his preface, Schama implicitly evokes a famous essay by G.M. Trevelyan, the doyen of English popular historians, called "Clio, A Muse." This is Schama's conclusion:

> But Clio, properly respected, is the least straightforward of the muses. Her beauty lies in the complexity, not the simplicity, of her truth. Which is why her votaries, attentive to the sometimes difficult and winding path they must follow, are sworn to tell stories in order to make the journey easier. For in the end, history, especially British history with its succession of thrilling illuminations, should be, as all her most accomplished narrators have promised, not just instruction but pleasure.

Luckily, Schama is too sophisticated, and too much a man formed in the crucible of the 1960s, to want to leave it there. There is an argument in Schama's tales. He tells us disarmingly that he wanted to reclaim the British story in a more open-ended way, without the assumption of given outcomes, and with an overarching belief that the great national strength of Britain is in fact "historical impurity." This is fair enough, so long as it means more than a nod toward a complacent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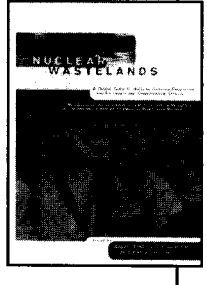


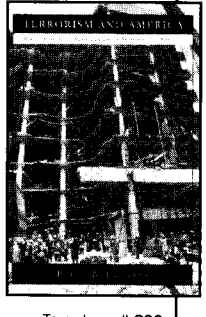


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"multiculturalism" and an undemanding "hybridity"; and in Schama's hands, the intention is certainly more analytically subversive than that. Still, by declaring his intention to amuse and to instruct at the same time, to compete with popular fiction and to reinscribe "ordinary people" into the charmed circle of Britain's extraordinary history, he is reiterating the ambition of all radical popular historians of previous generations: A.J.P. Taylor, perhaps, or before him, the underrated Victorian, J.R. Green; and before him again, Macaulay.

It certainly is significant that one thinks of Schama effortlessly in this company. Yet it is also worth noting that though Macaulay and Green specifically did not set out to write "drum and trumpet history," both were in a sense captured by the constrictions of popular narrative, and seduced by the glamour of personality-driven history. Schama has exposed himself to the same dangers, exacerbated in his case by the insidious way in which the tiny screen eliminates disjunctions and complexities in favor of seamlessness and repetition. Maybe Macaulay was lucky that there was no BBC to tempt him.

When his story resumes, the maestro will leave the medieval world for the early-modern world whose complexities he has done so much to elucidate already. In British history, Schama will confront the age when the *patria* became irrevocably identified with Protestantism and with not being European, followed by the era of industry and empire. The "people" may be more easy to include, too. But the historiographical Himalayas become ever more bewildering to survey, their peaks hiding crevices and glaciers, and requiring ingenuities of balance-holding. The alternative approach, of course, is simply to ski merrily down the most obvious slopes, which is what television cameras best like to record. This has never, up to now, been Schama's preferred route: but the moving image enforces an inevitable narrowing of focus. It should be said that Schama's *History of Britain*, when it was recently shown in Britain, won golden opinions from critics both highbrow and tabloid: he has resoundingly struck a target. Whether it was the target at which he aimed is another matter. ■

# The Old Days, the New Days

*By* JAROSLAW ANDERS

## Stonedial
## by George Konrád
## translated by Ivan Sanders

(Harcourt, 290 pp., $24)

MORE THAN A decade has passed since the "miracle year" of 1989, when communism fell and Eastern Europe launched into freedom. And yet there is hardly a trace of this revolution in serious Eastern European literature. Perhaps writers and readers alike decided that the lifting of censorship and the opening of archives relieved the literature of the tormented region of its traditional role as the custodian of collective memory. The younger writers especially seem to have all but abandoned public concerns. If their writing reflects the "new reality" at all, it is usually in the form of disjointed fragments that arrange themselves in dark postmodern fantasies. And their older colleagues, who have spent most of their creative years in moral and intellectual confrontation with the enemy that is no more, look at the transition with palpable confusion. They marvel at the magnitude of the changes, but often they fail to establish a connection between the human drama in the recent Dark Ages and what seems like the low human comedy (rampant materialism, ridiculous politics, baroque displays of depravity) that followed.

George Konrád's novel is an interesting attempt to bridge the gap, and also a vivid illustration of the difficulties and the dangers that are involved in the undertaking. It starts as a meditative journey of a writer returning to his native land after years of exile, in order to pick up the pieces of his life and make some kind of a junction between the remembered and the actual, but it ends in a mad escape into absurdity and grotesque. Before it self-destructs, however, the novel manages to cast a poignant parting look at the shadow lands of old Eastern Europe.

GEORGE KONRÁD WAS born in Hungary in 1933. He belongs to the generation of Eastern Europeans whose earliest memories include usually idyllic impressions of their prewar childhood and nightmarish recollections of World War II. They spent their adolescence and youth during the worst excesses of Stalinism. The defining experience of their lives was the hope and then the disappointment of post-Stalinist liberalization, which was misinterpreted, in Eastern Europe and in some circles in the West, as the beginning of a transformation of totalitarian communism into some form of democratic socialism. Popular expectations of this kind culminated in Eastern Europe in the turbulent year 1956. In Hungary, the unrest erupted into a full-fledged uprising that was brutally suppressed by the Soviets. Those who, like Konrád, were at that time in their early or middle twenties are known to this day as "the generation of '56."

For those who were born no more than a decade earlier, and who witnessed the Communist takeover in Eastern Europe as young adults, the new political system often appeared as spectral and unreal, a kind of suffocating cloud that covered and distorted the familiar shapes of the world. For the "generation of '56", however, communism was all too real. Apart from their dim childhood memories, it was the only reality that they could claim as their own. Even later, when many of them became dissidents or emigrated abroad, it often retained for them the gravity of fate.

It was an ineluctable fact of their existence, of the sort that one is supposed to struggle against but will never be overcome. When Camus's *The Myth of Sisyphus* started making the rounds among Eastern European intellectuals in the 1950s, many of them recognized the book as a fairly accurate description of their own condition. It is probably no accident that when the representatives of "the generation of '56" made their literary debut (which happened usually in the early and mid-1960s), most of them tried to do it as somber realists fascinated by images of failure, degradation, and despair. This was their attempt to beat the Marxists at their own game—to use the conventions of "social realism" to ex-

JAROSLAW ANDERS writes frequently on Eastern European literature.



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pose the seedy, dismal aspects of the "workers' paradise."

After receiving a degree in literature at the University of Budapest, Konrád worked as a social worker and a town planner. He made a rather late debut in 1969 with his novel *The Case Worker*, the grim story of a jaded, bitter social worker who almost despite himself gets personally involved in the case of a retarded orphan whose parents committed suicide. The novel was praised, or denounced, as an attack on bureaucratic insensitivity, even as a veiled indictment of the entirety of the Communist political system. It was both; but it also was something more. Written in a relentlessly precise way, in a detached but lyrical style, it portrayed its protagonist as an existential hero—Camus's Sisyphus, who finds a measure of dignity and freedom by accepting his inevitably futile task.

In later novels, such as *The City Builder* and *The Loser*, Konrád sought a more condensed and parabolic approach. *The City Builder*, based on Konrád's experiences in Budapest's Institute of Urban Planning, is set in an unnamed Eastern European city. Its protagonist, an architect, is an enthusiastic social engineer who grows disillusioned with his experiments in designing a new collectivist future for his city. In *The Loser*, Konrád made his hero live an implausibly convoluted life that seemed to include all of Eastern European experience—a "bourgeois" childhood, involvement in the communist underground, imprisonment, political and intellectual prominence, confinement in a mental asylum.

In 1989, Konrád published *A Feast in the Garden*, probably his best novel since *The Case Worker*. Built on a series of monologues of a group of friends, Hungarian intellectuals born shortly before the war, it reads as another composite portrait of Konrád's generation. The main character is David Kobra, a writer from an assimilated Jewish family, whose childhood memories of the Holocaust form the novel's dramatic core. The sober, meditative Kobra has a restless, anarchic alter ego in his school friend Janos Dragomán, also from a Jewish family and also set to become a writer. While David is a "local" hopelessly bound to his Central European realm, Dragomán is a born cosmopolitan who eventually escapes to the West. Their mutual friend, the novel's third protagonist, is a resourceful, energetic showman named Antal Tombor. All their narratives, together with those of their female friends, form a kind of braided history of the Eastern European intelligentsia. Although the novel is mostly a record of loss and disappointment, it ends on an almost sentimental note with a paean to love—even if it is love for things and people already gone. With its unmistakably valedictory tone, *A Feast in the Garden* appeared to be the novelist's farewell to the world that shaped the lives of his contemporaries.

BUT IN *STONEDIAL*, Konrád has written a sequel. The story takes place in Budapest and in an imaginary place called Kandor, which can be found "only on special maps, and the odd thing about these maps is that they are available only in Kandor." The two places share much of their topography, and sometimes they blend into each other, through Kandor is situated not on the Danube but on a magnificent lake resembling Hungary's Lake Balaton. Cosmopolitan and provincial at the same time, Kandor "boasts a cathedral, a medieval fort, and a lakeshore promenade that leads to an ornate, turn-of-the-century crematory." Inside the crematory is a painting of Death driving an oxcart and surrounded by naked bodies—as if in premonition of the other crematoria that would soon stain the East European landscape.

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brocades, brass, and marble, was used as a prison and a place of torture during the war. The beach, now enjoyed by Scandinavian tourists, leads to a place where people were shot during a winter in wartime and their bodies pushed under the ice. The city is built around a volcanic cone, which ominously issues a strip of smoke—though it is so faint that only some people claim to have seen it. On the top of the mountain there is a mysterious stone circle called the Stonedial. Kandor, in short, is Eastern (or East-Central) Europe, a place of unclear borders and uneasy memories.

THIS TIME THE central character is Janos Dragomán, who, after his escape to the West in *A Feast in the Garden*, has become an international celebrity of unspecified achievements, one of those peripatetic intellectuals famous mainly for their conference appearances and interviews. Since his departure he has been traveling light—two shoulder bags is all he needs—and he likewise keeps his intellectual baggage to a minimum. Now he is back in Kandor, "just passing through," as he assures himself, led by what he calls "nostalgic vanity"—a need to measure himself against his old friends, and to be honored by them as the only Kandoran who made it in the big world.

David has become a local cultural icon, and has even begun to gain some international recognition—but, as Janos observes, even when he is traveling he psychologically "remains in place, motionless in a moving vehicle—the world comes to him." Antal Tombor is Kandor's new and flamboyant mayor, who runs the city like a big media show. He has cashed in on his reputation as a dissident artist, even if his dissent was really a kind of conformism. After 1956, he realized that communism "wasn't what you'd call a solid investment." Refusing to join the Party, he "devised his own language of evasion and subterfuge," and skillfully cultivated influential party apparatchiks who helped his career (as a movie director) in exchange for his patronizing friendship.

Now Tombor sees Dragomán as Kandor's "roving ambassador," someone who could "create interest in Kandor among his New York friends, bankers, in particular." He also needs his intellectual anarchism as a political counterbalance to the conservative moralism of his deputy Aba Kuno, the rector of a local university, who dreams about restoring a multinational Central European monarchy, and who "feels his duty, as part of his rescue mission, to be a member of every elite that comes along."

This slightly cartoonish present is interspersed with more subtle flashbacks that carry us back nostalgically to Dragomán's adolescence and youth in postwar Kandor. In his college years, as an aspiring writer disappointed with ideologies but reluctant to resign himself to mere formalism, he decides to become a chronicler of the city and an explorer of forgotten places where real life still hangs on, unclaimed and unregulated by the official ideology. "I peek into courtyards and see tiny garden plots, carpet beaters, broken tricycles, long johns swinging on a clothesline, huge jars filled with pickles, a dented rubber ball, a garden chair without a backrest. Decline and disuse have a certain sweetness, as do objects dying slow death. But why should anything remain perfect?"

Dragomán finds a sentimental gratification in his aimless strolls, during which he discovers that although space is confining, it can also endow each passing sensation with an object-like density. "Every memorable event is spatial, everything happens somewhere, every incident is connected to a place—the way a snail is attached to its house, an oyster to its shell, a cat to its favorite corner by the stove. There are things Dragomán recalls only in this or that place; they emerge from the depths. A memory may be inscribed on a bare wall. If he hadn't found himself on a street corner, if he didn't pass by a doorway, the story they evoked would vanish."

Dragomán's wanderings, his evenings in seedy cafes and on park benches, are suddenly interrupted by the outbreak of the Hungarian uprising of 1956. Like most of his colleagues he joins the struggle, though he seems strangely alienated from the enthusiastic crowds: "Though he felt justified in being there, he knew he had marched like this before, in May Day, with thousands of others. There were organizers among the demonstrators whom he remembered from the old days." A natural skeptic and a loner, he feels uneasy among the "revolutionary fervor of those healthy plebeian forces," and notes with amazement the sudden prominence among anti-Stalinist demonstrators of people who with equal zeal welcomed Rakosi's Stalinist takeover in 1948. He witnesses the lynching of a man accused of being a police informer, jockeying for power among leaders whose "vocabulary was as modest as their wardrobe," outbursts of rabid nationalism, and confusion about "who the enemy was, and what we were fighting for."

While the "healthy plebeian forces" were fighting for power and revenge, the intellectuals, aware of the odds, struggled with abstractions. It was a time, Dragomán remarks, when existentialist philosophy, "a distillation of an earlier generation's war experience," was reaching the intellectuals of Eastern Europe. Dragomán finds himself one of "the more eccentric and bumptious humanities students, who for various reasons are convinced that history cannot march on without them." With his (so far unused) gun and a book by Merleau-Ponty in his bag, he unexpectedly becomes an advocate of revolutionary terror. He decides to find, and to kill, a pro-Soviet collaborator; but when he actually meets one, a colleague from his university who joined a pro-Soviet militia, he meekly surrenders his documents and walks away.

ALL THIS IS highly unheroic—an almost revisionist account of the most sacrosanct event in recent Hungarian history; and it is fair to say that a reputable author probably could not have written it when the Communists were still in power. One of the paradoxes of the fall of communism in Eastern Europe is that it really opened up the past, exposing not only Communist falsifications (which were known for some time already) but also layers of heroic anti-Communist mythology, which only now can be examined in a more detached and depoliticized way.

There is a strange contrast between those sharp, realistic snapshots from the past and the growing surrealism of the scenes taking place in present-day Kandor. During his global peregrinations, it seems, Dragomán has acquired a distinctively post-modern capacity to attract a large number of strange coincidences and bizarre events. He thinks that someone is trying to run him over with a car, and believes that he is being followed by two uncanny individuals: a bald man in Tyrolean pants carrying a birdcage, and a woman "who walks around with a rat on her shoulder, sucking pensively on the rat's long pink tail." A man, who claims to have been inspired by Dragomán's essay on the "esthetics and erotics of fire," offers to become his lover, and when Dragomán rejects him, he jumps to his death from Dragomán's window. There is also a mysterious organization called Darnok, "an international outfit with interests in everything from sensitive military hardware to show business, from genetic engineering to hotel management," which has its own, unspecified designs on Dragomán.

Despite those seemingly gratuitous intrusions of weirdness, the novel's present seems to develop for a while in parallel to its past. Dragomán resumes his wanderings in Kandor, which appear to him as a curious mixture of memory and daydream. There is even a hint of a truce in the constant tug-of-war between Dragomán and his native realm: "He put up with his vexing country, then he kept tearing himself away from it, belittled it,



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argued back, made excuses for it, boasted about it. He almost sees Kandorans now as members of his chosen family, and in a fit of goodwill accepts all his forebears, embracing them in his heart, praying for the insufferable lot." When a mysterious woman, who claims to be Dragomán's daughter, invites him to her home near Kandor, Dragomán accepts almost without reservation. During his frequent trips between the city and a little hamlet where the woman's mother runs a lakeshore tavern, or when he stops and regards the city from his hotel window, he tries to memorize all details that come into his field of vision, just as he did before the uprising and his departure to the West. But this time his reckoning is made even more poignant by the echoes of memory in the observer's mind: "Where is yesterday? Stolen. I cannot tell the difference between the original happening and the image I created of it in my mind. There are no facts, only images. Can I order my imagination to enter with its flickering lantern the dim storehouse of an ancient evening? I've amassed a great many unretouched photographs, and they are all there in one large, unworked pile."

Konrád can skillfully evoke the state of mind of a returning exile faced with a reality both familiar and alien, attractive and repulsive—a strange, unstable domain where "memory moves things into unreality and makes them real." Perhaps the novel captures also something else: the momentary return and the instant vanishing of the old myth of Central Europe as it is embodied in Kandor. At first glance the place seems to be solid, and tightly woven of facts, images, sensual impressions. Yet a closer look reveals that it is already fading, fraying at the edges, blending into the shoddy "normality" of the new Eastern Europe. As Dragomán walks the streets of Kandor, he discovers drug markets and gun markets tucked into historic courtyards. Even the owner of the lakeshore tavern supplements her income by running strip bars in the city.

Unfortunately, *Stonedial* wants to be more than just a novel about myth, memory, and a hesitant homecoming. Late in the story, almost as an afterthought, we learn that for Dragomán the past and the present of Kandor are linked by an unresolved moral drama. Back in the time of the uprising he did in fact kill somebody, and his act might have caused the death of six of his comrades-in-arms. The incident also involved Aba Kuno, at that time a young university instructor. The actions of the two had opposite vectors: Janos tried to fight against all odds, while Aba wanted to negotiate an honorable surrender. The consequences of their actions for the tragedy that ensued will remain forever a puzzle to both of them. When the deed is done they challenge each other to a kind of duel, which looks more like a suicide pact. They wound each other, and stumble from the scene in a silent agreement never to mention the incident again.

This late twist in Konrad's tale offers fascinating possibilities. If there is a single theme that defines Eastern and Central European history through much of the twentieth century, it is not oppression, suffering, or the fight for freedom; it is the sense of guilt, individual and collective. Behind the self-worshiping martyrological mythology entertained by almost all the nations in those lands, there lingers a suppressed awareness that much of the horrors that visited the area with such savage frequency could not have taken place without the tacit approval and the active participation of many, many people. Moral ambiguities, like the one that binds Jonas and Aba, are passed from generation to generation, and damage friendships, and trickle into politics and culture, and prompt strange ideological alliances, and produce an endless spectacle of self-exoneration, denial, blame, and sham reconciliation.

All these poisons are certainly present in modern-day Eastern Europe. In *Stonedial*, they cast a new and interesting light


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on Aba's monstrous self-righteousness, and on Dragomán's endless flight. And yet the climax of the drama is the most disappointing moment in the novel. During one of the media events staged by Tombor, Dragomán overhears Kuno bragging about his part in the Hungarian uprising and publicly accuses him of lying. The men exchange blows, Aba falls, hits his head against a bench, and dies. A lifetime of culpability, resentment, and falsity, culminating in a brawl and an accident? Where can the writer go from there? Nowhere, it seems. For everything that follows seems like a series of chaotic attempts to ease the novel out of its narrative deadlock.

Kandor's chief of police, a former security agent, and a parody of Inspector Porfiry from *Crime and Punishment*, tries to trap Dragomán and indict him for murder. Aba's wife kidnaps him and tries to make him her sex slave. Dragomán assembles all his friends and asks them to deliberate on whether Aba's death was an accident or a premeditated act. The question is absurd, so the jury launches into a debate on the nature of accidents, and on Kuno's political and religious views, and on his notion of a Central European confederation that, according to his widow, "would offer a political blueprint for Christian love and toleration." Dragomán himself suggests that his act may have a larger symbolic meaning: "A few right-thinking citizens will also say: he pushed to his death the very best among us, the best in us. He pushed us away." At the same time he consoles himself, like Raskolnikov, by denouncing the pettiness of ordinary human justice: "All of you are masters of self-imprisonment. There is no life outside Kandor, you all say, and if there is, it's nothing like this. It so happens you are right. But I can't stand being closed in. And I will not collaborate with my jailers, become the lover of my prison guard. What reason is there to put me in jail, and then, after a long detention, let me go?" The rambling symposium is inexplicably interrupted by the arrival of a circus, or a street theater, featuring a giant wooden pig with a TV screen in its mouth, which "shows a pig slaughter in vivid detail, but in reverse order, from the sausage stage to the live animal."

Soon afterwards, Dragomán climbs the Stonedial, which, by its elevated position and its supposedly magical powers, clearly signals the novel's apex. But the revelation that the protagonist receives there is bombastic and foggy.

> In the time rendered motionless by the Stonedial, all exertions and contortions are reduced to a few tentative movements, and even those to a shadowy image, and that to a single dot which can only vanish. The elimination of all prospects is always imminent, but I can seldom exclude from my thoughts the notion of a future, of a time when I can still make things right, recover from my illness, make up for what I've missed. If there is no future and no redress; if everything remains as it was, if the future events do not modify those of the past, then each moment is complete in itself.

What are these "exertions and contortions" that are reduced to a vanishing dot? What actually ensues from the proposition that "each moment is complete in itself?" Does this passage mean anything at all, or is the author pulling our leg? And does it matter?

Probably not. Soon after his epiphany Dragomán accepts an offer from the man with the birdcage, who promises to smuggle him across the border. Their car has an accident and the man dies. In a pointless repetition of an episode from *A Feast in the Garden*, Dragomán tries to walk across the border, is arrested, and is sent to an insane asylum. Released into the custody of a woman who claims to be his daughter, he soon disappears again. Years later Kobra runs into him at the Frankfurt airport. Apparently Dragomán has resumed his peregrinations and is heading, with his two shoulder bags, to a conference, or a teaching appointment, in St. Petersburg. Evidently nothing has really happened in his life during his stay in Kandor.

But if nothing happened, what was the point? Having assembled so many interesting themes, the novel ends in an elaborate escape from seriousness, as if the writer suddenly lost interest in the idea of showing continuity between the past and the present. Instead there is a striking disparity in the book between the earnestness of what is remembered and the grotesqueness of what takes place now. Perhaps the "now" in former Eastern Europe really appears this way: colorful, strange, and shallow.

For people from Konrád's generation, the Eastern European revolution may indeed appear anti-climactic—a momentary flight of the spirit followed by a clumsy landing into normality. They may also realize that the world of multiplicity and indulgence, the moral chaos of free societies, has already been described in every aspect and in every style. Perhaps this means that we will never get a great novel about the Eastern European deliverance. For literature, the revolution turned out to be a bit of a disappointment, which suggests that it was really a success. As for the generation that spent most of their lives on the other side of the Great Divide, at least they have the past. ■



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# CORRESPONDENCE

*continued from page 9*

## Correct change

TO THE EDITORS:

In his review of Adam Ulam's autobiography, *Understanding the Cold War: A Historian's Personal Reflections* ("Kremlinologist as Hero," November 6), Stephen Kotkin writes: "Hawkish specialist-officials such as ... [Richard] Pipes largely dismissed any possibility of lessening hair-trigger tensions, arguing that the Soviet system could never change...."

The reality is quite different. My view was that the Soviet system not only could change but had to change, because it ceased to be viable. This was the premise that underlay the National Security Decision Directive 75, signed by President Reagan in January 1983 and now declassified, which provided the rationale for his administration's Soviet policy. The central point, which I contributed, stated that our aim should be "to promote ... the process of change in the Soviet Union toward a more pluralistic political and economic system in which the power of the privileged ruling elite is gradually reduced.... [R]elations with the USSR should ... take into account whether or not they help to strengthen the system and its capacity to engage in aggression." This recommendation, resisted tooth and nail by the State Department (which shared the prevailing academic view that we could not influence developments inside the USSR), certainly posited both the desirability and possibility of change.

In my 1984 book, *Survival Is Not Enough*, I argued that the Soviet regime was in a "revolutionary situation" and could not avoid instituting profound reforms that would, inevitably, lessen world tensions.

RICHARD PIPES
*Baird Research Professor of History*
*Harvard University*
*Cambridge, Massachusetts*

STEPHEN KOTKIN REPLIES:

In the early '80s, it seems to have been possible to write in secret memoranda that installing new missiles in Europe and engaging in other aggressive and demonstrative actions were meant to promote "change" in the Soviet Union. Of course, such steps were advocated and undertaken by people, including Richard Pipes, who viewed the Soviet leadership as firmly committed to its own power and to the fundamental tenets of its regime. Promote "change" whereby the "power of the privileged elite is gradually reduced"? A privileged elite armed with more than five million loyal troops, a vast conventional arsenal, and tens of thousands of nuclear, chemical, and biological weapons? There were no major mutinies in the Soviet army, KGB, or Ministry of Interior in the late '80s. Many of the weapons in the Soviet doomsday machine are still capable of use today.

All of us, including Pipes, can consider ourselves fortunate that much of the "privileged elite" he hoped to "change" had already chosen, beginning in the Brezhnev era, to take the property and run rather than employ the phenomenal forces at its disposal to defend the Soviet system. Brinkmanship always looks good when the other side unexpectedly capitulates—and, in an even greater surprise, capitulates peacefully, having been crushed by Levittowns, *Tootsie*, shopping malls, and Great Society commitments to social welfare that outdid communism on its own turf. But what would Pipes be saying, and would he be around to say it, if the Soviet leadership had decided to dig in its heels with its available armed force or to bring down the world with itself? Adam Ulam walked a finer line than Pipes, understanding the Soviet Union for what it was and urging policymakers to stand up to it, while cautioning about the need to avoid catastrophe. ■


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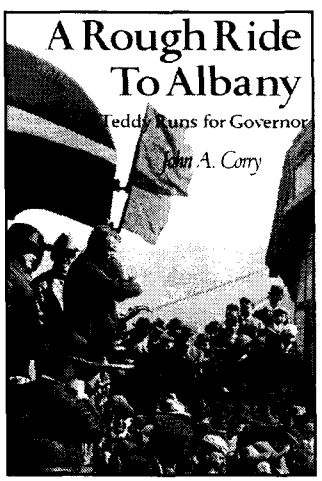


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# WASHINGTON DIARIST

# Columbia Blues

IF PRESIDENT CLINTON VISITS North Korea, my editor has offered to send me along for the ride. But I have my reservations. To begin with, I'm a pack-and-a-half-a-day smoker, and, despite my colleagues' assurances that Pyongyang is a smoker's paradise, I'm not certain I'd survive the 19-hour flight. Then there's the little matter of travel arrangements. THE NEW REPUBLIC has offered to pay my plane fare to North Korea. But the question of exactly how, or even if, I will return has yet to be decided. Besides, if it's the last gasp of Stalinism I'm to write about, I'd rather cover *The Nation*'s annual cruise to the Caribbean. In any case, I already know what it's like to live under a regime like North Korea's. And I have no wish to revisit my college years.

ALAS, THE NEWS CYCLE HAS OBLIGED me to do exactly that. It seems administrators at Columbia University—my alma mater—have been running amok, trampling on the rights of the school's educators and students. The scourge of speech codes and diversity training that seized so many campuses a decade ago, we are told, is now behind us. But someone apparently forgot to deliver the word to Morningside Heights.

NEWS OF COLUMBIA'S MOST RECENT assault on academic freedom came only a few months ago. Renowned Law School Professor George P. Fletcher is said to have upset some of his female students with an exam question—based on a composite of actual cases—describing an attack on a pregnant woman. The offended students complained, and, soon enough, Law School Dean David Leebron declared that the matter raised "a plausible suggestion of liability and unlawfulness." He then referred the issue to Columbia's legal counsel. Even Fletcher's colleagues have hung him out to dry. Some argued that Fletcher shouldn't be allowed to teach a required course because, among other reasons, his very presence in the classroom might create a hostile environment for women. Meanwhile, Columbia has responded with silence to queries from concerned civil libertarians.

NOT COINCIDENTALLY, THE DESTRUCTION of Fletcher's reputation coincided with an overhaul of the university's sexual-misconduct policy. In recent months, newspapers from *The Village Voice* to *The Wall Street Journal*, along with free speech watchdogs like the Foundation for Individual Rights in Education, have pilloried Columbia's new guidelines, which do away with such fundamental tenets of due process as the rights to be accompanied by a lawyer during questioning and to be present when witnesses and one's accuser testify. The university's response is not reassuring. "[The] imposition of every criminal law due process requirement," it insists, "is not necessary to ensure a fair and effective process." For their part, the student activists who spearheaded the effort to revise the rules claim due process merely amounts to "red tape." (Lest anyone miss the point, they festooned themselves with red tape as a "symbol of resistance.") After Columbia President George Rupp endorsed the new rules, one of the campaign's teenage coordinators boasted, "There was obviously some fear in the eyes of the administrators."

NOT THAT COLUMBIA'S ADMINISTRATORS are always hostile to free speech; when it's the "disenfranchised" whose speech needs protecting, they sound like the executive board of the ACLU. Hence, the president of the school's Black Students' Organization could, with impunity, excoriate Jews as "devils" and "leeches sucking the blood from the black community." In a similar vein, only a few months ago University Provost Jonathan Cole published an encyclical, "On the Matter of Edward Said," which invoked John Stuart Mill in defense of the professor's right to throw rocks at Israelis. "There is nothing more fundamental to a university," Cole declaims, "than the protection of the free discourse of individuals who should feel free to express their views without fear of the chilling effect of a politically dominant ideology." But exactly how devoted Cole and his fellow bureaucrats are to "free discourse" may be gleaned from Columbia's policy statement on discrimination and harassment. Inveighing against "the ignorant, the foolish, the sick," it declares, "The free exchange of ideas central to the University can take place only in an environment that is based ... on freedom from behavior that stigmatizes." Such behavior encompasses remarks, including even "verbal innuendo," that may contribute to a "hostile or offensive" environment. George Orwell's pigs knew the mindset on 116th Street. "All animals are equal," they concluded, "but some animals are more equal than others."

FORTY YEARS AGO, COLUMBIA COLLEGE Dean John G. Palfrey advised students that "[g]uidance and help are available, but there is an assumption of maturity." There is clearly no such assumption today. Rupp has protected the weak from "the chilling effect of a politically dominant ideology" by, among other things, barring students from attending a 1998 conference at Columbia on conservatism and higher education. The conference speakers were then forced to relocate to nearby Morningside Park, where they were shouted down by a mob chanting, "Ha! Ha! You're outside! We don't want your racist lies!" The immaturity doesn't stop there. As noted civil liberties litigator Harvey Silverglate points out, by no longer requiring accusers to attend the hearings of the accused, the university's sexual-misconduct policy treats plaintiffs as the state would a four-year-old witness in a sexual-abuse case. In a similar vein, Columbia College infantilizes its students by subjecting freshmen to sessions that alert them to acceptable and unacceptable forms of speech. "[Y]ou can't bring all these people together," a Columbia dean explained to *The New York Times* in 1992, "and say 'Now be one big happy community' without some sort of training ... so we need to do some education."

IT'S EASY TO BLAME THE VAUDEVILLE at Columbia on ideology run amok. And certainly dogma drives many of the university's student-affairs deans, under whose influence the logic of the Berkeley free speech movement has culminated in stringent limitations on free speech. But the moral carelessness of Columbia's senior administrators has a different source. As our major universities have mushroomed in scope and resources, they have increasingly come to resemble large corporations—with billions of dollars in capital, platoons of lawyers, and, of course, an independent class of professional administrators. Educators no longer run universities like Columbia; flacks do. And they govern by corporate, not academic, rules. The most important of these is "Don't rock the boat." In theory, that means appeasing the loudest voices. In practice, as Roger Rosenblatt described the tendency at Harvard during the 1960s, it means liberalism rolling over on its back like a turtle. In Columbia's case, it means groundskeepers transforming a refuge of liberal inquiry into one of the least free pieces of real estate in America. Maybe they could use a holiday in North Korea.

LAWRENCE F. KAPLAN



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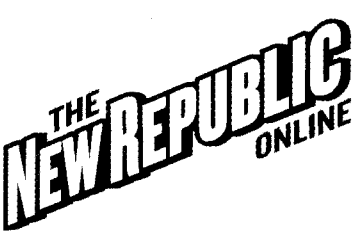



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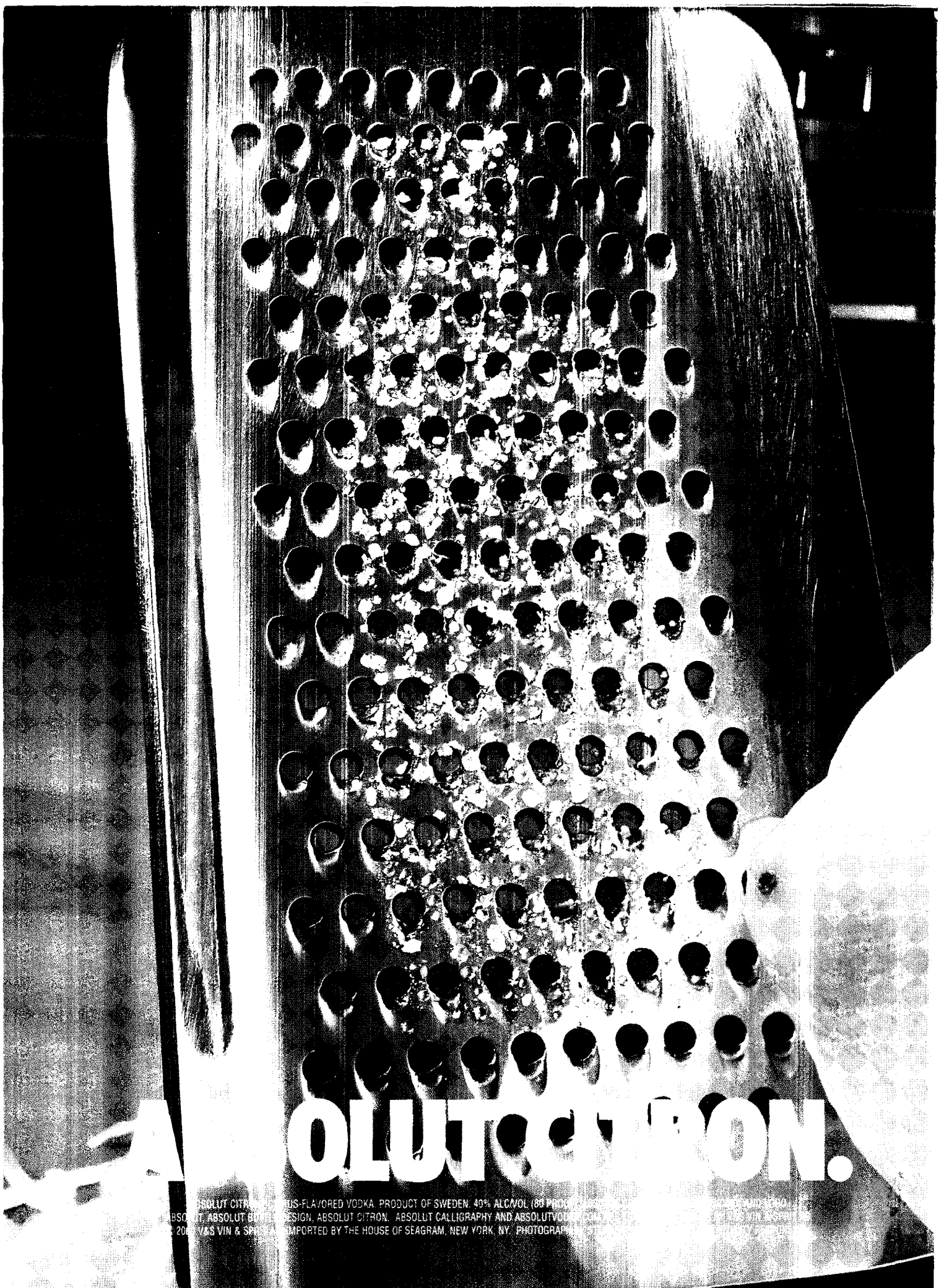


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